



A341537

Ms Kay Attard
National Liquor Compliance Officer
Woolworths Pty Ltd
1 Woolworths Way
BELLA VISTA NSW 2153

Email: [REDACTED]

Dear Ms Attard

Notice to Show Cause – activities suspected of encouraging the misuse and abuse of liquor under section 102A of the Liquor Act 2007

The Office of Liquor, Gaming and Racing has reviewed material in relation to activities promoted on BWS/Woolworths branded “receipt rewards” documents.

The “receipt rewards” promotions offered a bonus 6 pack of Sol Mexican Beer with the purchase of a specified bottle of wine and were available for redemption from 2 to 29 January 2013. An example of the BWS/Woolworths promoted activity is enclosed.

The activity of offering a bonus 6 pack of beer may encourage irresponsible, rapid or excessive consumption of alcohol and is inconsistent with the risk assessment advice provided in the Office of Liquor, Gaming and Racing Liquor Promotion Guidelines.

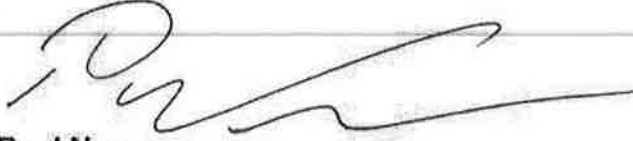
I have formed a preliminary view that this activity presents an increased risk of encouraging the misuse and abuse of liquor as contemplated by section 102A of the *Liquor Act 2007* (“the Act”).

You are invited to **show cause by 15 April 2013** why a notice to restrict or prohibit the licensee from carrying on or permitting these activities should not be issued. If you elect to make a submission, it should include details of what, if any, risk assessment has been conducted and what, if any, controls are currently applied to this activity and like BWS/Woolworths liquor activities and promotions. If you decide not to respond to this notice to show cause, the matter will be dealt with on the material currently available and further regulatory action may be commenced without further notice.

I have attached for your information an extract of section 102A of the Act and a copy of the Liquor Promotion Guidelines which provide guidance to inform a risk assessment on liquor activities or promotions.

Should you require further information on this matter, Mr James Shand, Compliance Officer, Office of Liquor, Gaming and Racing, can be contacted at james.shand@olgr.nsw.gov.au or on 02 9995 0726.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Paul Newson', written over a horizontal line.

Paul Newson
Director Compliance
Encl.

25 MAR 2013

RECEIPT REWARDS

BWS/WOOLWORTHS LIQUOR

BONUS 6 PK SOL MEXICAN BEER
When you purchase a bottle of SOUTH ISLAND Marlborough
Sauvignon Blanc and present this receipt at any
BWS OR WOOLWORTHS LIQUOR STORES
From 2 January 2013 - 28 January 2013

*Not available to under 18's. Limit of 1 redemption
per receipt. At this great price, no further discounts
apply. For store locations and Receipt Rewards
terms & conditions visit bws.com.au



9300633290085

STORE 1228 POS 006 TRANS 0762 11:13 28/01/13

FUEL OFFER

Surrender this docket at any Caltex Woolworths
co-branded outlet to receive a discount of 8.0 cents
per litre off the pump price. LPG discounts at
selected outlets. Not available with other fuel offers.
Limit 150 litres per customer. No discount on Starcards.
This docket offer expires: 26/02/2013

STORE: 1228 11:13 28/01/13



99122800607520800000800001502502201344

STORE 1228 POS 006 TRANS 0762 0076 11:13 28/01/13

LIQUOR ACT EXCERPT

102A Director-General may restrict or prohibit activities that encourage misuse or abuse of liquor

- (1) The Director-General may, by notice in writing given to a licensee, restrict or prohibit the licensee carrying on, or permitting on the licensed premises, any activity specified or described in the notice that, in the opinion of the Director-General, is likely to encourage misuse or abuse of liquor (such as binge drinking or excessive consumption).
- (2) A licensee who, without reasonable excuse, fails to comply with a notice under this section is guilty of an offence.

Maximum penalty: 50 penalty units.

LIQUOR PROMOTION GUIDELINES

This guideline is published by the Director of Liquor and Gaming under section 102 of the Liquor Act 2007, and indicates the kinds of activities or promotions that the Director would restrict or prohibit.

You must always have due regard to the following objectives of the liquor laws:

- ~~Need to minimise harm associated with the misuse and abuse of liquor~~
- Encourage responsible attitudes and practices towards the promotion, sale, supply, service and consumption of liquor
- Ensure that the sale, supply and consumption of liquor contributes to, and does not detract from, the amenity of community life.

PURPOSE

To ensure that licensees sell and supply liquor responsibly, the Director of Liquor and Gaming has developed this guideline for the responsible promotion of liquor.

This guide describes the circumstances upon which the Director may, by notice in writing given to a licensee, restrict or prohibit the licensee carrying on, or being involved in, activities or promotions involving the sale or supply of liquor.

This guideline applies to all liquor licensed premises. All the matters mentioned in this guide are of high relevance to hotels, clubs and restaurants; lesser relevance to package liquor premises (takeaway sales through a bottleshop or home delivery); and lower relevance to producer wholesalers (winemakers / brewers).

All licensees should have a good understanding of this guideline. Using this guide will help you determine the risks associated with a proposed activity or promotion involving the sale and supply of liquor. If any unacceptable risks are associated with the activity or promotion, it should not be conducted.

WHAT IS THE LAW?

The *Liquor Act 2007* (section 102) requires the Director of Liquor and Gaming to issue publicly available guidelines that indicate the kinds of activities or promotions that the Director would restrict or prohibit.

What are the circumstances for the issue of a notice that would restrict or prohibit activities or promotions?

The Director of Liquor and Gaming may restrict or prohibit an activity or promotion in a specific venue if the Director believes that the activity or promotion:

- uses designs, names, motifs and characters that have special appeal to minors
- is indecent or offensive
- involves the provision of liquor in non-standard measures that encourages irresponsible drinking and is likely to result in intoxication
- uses emotive descriptions that encourages irresponsible drinking and is likely to result in intoxication
- involves free drinks, or extreme discounts or discounts of a limited duration, that creates an incentive for patrons to consume liquor more rapidly than they otherwise might
- encourages irresponsible, rapid or excessive consumption of liquor
- is not in the public interest.

The table on page 3 lists unacceptable liquor activities and promotions that will be subject to the issue of a notice. Whether or not other activities or promotions will be subject to the issue of a notice will depend on how the promotion is conducted, whether the risks have been satisfactorily controlled, and the response of patrons.

Failure to comply with the notice may result in fines of up to \$5,500.

Are there any other actions that the Director can initiate?

Yes, if problems have arisen with the conduct of liquor activities and promotions, the Director may:

- give a written direction, which can take effect immediately or on a later date stopping the activity or promotion (section 75). Failure to comply with the direction may result in fines of up to \$5,500
- make a complaint to the Authority to take disciplinary action (section 139) — this would be on the grounds that the licensee or manager has engaged in conduct or activities that are likely to encourage misuse or abuse of liquor (such as binge drinking or excessive consumption).

MORE INFORMATION

Phone: (02) 9995 0333 Email: info@olgr.nsw.gov.au

Complaints about inappropriate liquor promotions should be made to the complaints manager:
telephone: 9995 0776 email: robert.hanns@olgr.nsw.gov.au

These guidelines are subject to periodic review. Please go to www.olgr.nsw.gov.au to ensure you are using the latest guidelines.

LIQUOR ACTIVITY OR PROMOTION RISK ASSESSMENT GUIDE

The following is a useful tool to help you determine whether the activity or promotion is acceptable.

1. Assess the risk	Assess the risk in accordance with the risk assessment table below before commencing the activity or promotion
2. Develop a management plan	If the risk assessment indicates that the promotion is a medium risk – identify whether the risks can be properly managed
3. Do not conduct the promotion	Do not conduct the promotion if the risk assessment identifies the proposed promotion: <ul style="list-style-type: none"> • is an unacceptable risk • is a medium risk and you are unable to properly manage the risk
4. Immediately cease	Immediately cease an activity or promotion when you identify that patrons are engaging in irresponsible, rapid or excessive consumption of liquor or unsafe activities

	Unacceptable Risk	Medium Risk	Low Risk
Service and consumption	<ul style="list-style-type: none"> • Competitions, games of skill, challenges, lotteries, games of chance, promotions and similar which involve the following attributes: <ul style="list-style-type: none"> ◦ entry, participation or outcome is dependent on the consumption of more than one alcoholic beverage¹ on the premises², and/or ◦ prizes of alcoholic beverages are awarded and which involve their consumption on the premises • Labelling or titling that is likely to promote irresponsible consumption • Non-standard containers that are likely to result in rapid intoxication • Holding a person's financial institution card³ • Providing alcohol on credit / pay later basis⁴ • Undercover (stealth) and viral marketing⁵ 	<ul style="list-style-type: none"> • Bulk pre-mix • Multiple drinks • Non-standard measures • Mid-strength alcoholic (not greater than 3.5%) promotions 	<ul style="list-style-type: none"> • Standard measures • Half-measures • Low alcoholic drink (not greater than 3%) promotions • Liquor prizes not consumed on the premises • Traditional tasting measures in connection with brewers, winemakers, retailers
Price	<ul style="list-style-type: none"> • 50% or higher discount for consumption on the premises • Potential for patrons to stockpile drinks to take advantage of offer • All you can drink offers for a set price • Two for the price of one offers • More than one free drink⁶ • A meal deal with more than one drink included in the price or a dinner for two people deal with more than one bottle of wine • Promotional cards, vouchers or incentives providing free or discounted drinks for consumption on the premises which are distributed away from the premises⁷ 	<ul style="list-style-type: none"> • 25% to 49% discount for consumption on the premises • Mid-strength alcoholic drinks (not greater than 3.5%) 	<ul style="list-style-type: none"> • Less than 25% discount for consumption on the premise • One free drink • Low alcoholic drinks (not greater than 3%)
Time frame⁸	<ul style="list-style-type: none"> • More than 2 hours • Anytime after 9 pm⁹ if it involves alcoholic beverages with an alcoholic content greater than 3.5% • Separation between events is less than 4 hours 	<ul style="list-style-type: none"> • 1 to 2 hours • Anytime after 9 pm if it involves mid-strength alcoholic drinks (alcoholic content not greater than 3.5%) 	<ul style="list-style-type: none"> • Less than 1 hour • Anytime after midnight if it involves low alcoholic drinks (alcoholic content not greater than 3%)
Patron safety and amenity	<ul style="list-style-type: none"> • Dangerous or unsafe behaviour • Sexually provocative • Lewd and indecent behaviour 	<ul style="list-style-type: none"> • Slip / trip / fall risks 	<ul style="list-style-type: none"> • Non-threatening • Reasonable physical activity
Legality	<ul style="list-style-type: none"> • Any promotion or activity that promotes an illegal / unlawful activity 		

¹ A method must be adopted to ensure a person does not acquire any more than one alcoholic beverage

² This does not stop promotions or activities where consumption will occur at private homes, etc.

³ Does not apply to the holding of a person's corporate / business card for a corporate function. Does not apply to a person's card if the account is settled before the conclusion of trade in which the consumption occurred

⁴ Does not apply to an account held on behalf by a corporation for a corporate function. Does not apply to the holding of a person's corporate, business or person financial institution card if the account is settled before the conclusion of trade in which the consumption occurred. Does not apply to guests staying in-house.

⁵ Note. For the purposes of clarification, this does not apply to persons employed to promote a brand, who are clearly identified as promoting a brand and who have undergone RSA training

⁶ One free drink is acceptable – a distribution method must be adopted to ensure a person does not acquire any more than one free drink. This does not apply to non-commercial activities such as where free drink(s) are provided in conjunction with bona fide meetings - annual general meetings of members of a registered club, attendance at regular meetings of a community group (eg. RSL sub-branch)

⁷ Drink cards, promotional cards, vouchers or incentives distributed on the premises are acceptable, however, they must only entitle the person to one free drink per person per day – a distribution method must be adopted to ensure a person does not acquire any more than one free drink or more than one drink card

⁸ Applies to 'happy hour' and similar time-based activities and promotions conducted over a lengthy period of time

⁹ From 9pm until closing time or 5am whichever comes sooner

**LIQUOR ACTIVITIES AND PROMOTIONS
SUBJECT TO A NOTICE UNDER SECTION 102**

Activity or promotion	Indicative examples
<ul style="list-style-type: none"> Any activity or promotion likely to cause people to drink excessively 	<ul style="list-style-type: none"> promotional cards, vouchers or incentives providing free or discounted drinks which are distributed away from the licensed premises and which involves consumption on the premises¹⁰ external advertising of a complimentary drink unless drink is provided ancillary to another service – accommodation, food promotions, events or festivals which focus principally upon the consumption of alcohol, e.g. Mad Monday only selling liquor in a container of one size (e.g. schooner glasses only available – patron not able to order a middy)
<ul style="list-style-type: none"> Competitions, games of skill, challenges, lotteries, games of chance, promotions and similar which involve the following attributes: <ul style="list-style-type: none"> entry, participation or outcome is dependent on the consumption of more than one alcoholic beverage¹¹ on the premises¹², and/or prizes of alcoholic beverages are awarded and which involve their consumption on the premises¹³ 	<ul style="list-style-type: none"> skolling games, boat races consumption of liquor from a water pistol 'beer pong' toss the boss competitions flip and win schooner draws joker poker 'Around the world' '60 shots in 60 seconds' pub golf
<ul style="list-style-type: none"> Labelling or titling of promotions that suggest irresponsible or excessive consumption of liquor 	<ul style="list-style-type: none"> laybacks, slammers, blasters, bombs and similar 'Beat the clock', 'Drink like a fish'
<ul style="list-style-type: none"> Drink cards and similar that cause people to drink excessively¹⁴ 	<ul style="list-style-type: none"> drinks cards that provide multiple free drinks¹⁵, extreme discounts or discounts of limited duration on a given day or night and / or have the capacity to be stockpiled by patrons or given to other patrons
<ul style="list-style-type: none"> Non-standard containers that are likely to result in rapid intoxication 	<ul style="list-style-type: none"> -serving liquor in a yard glass for skolling multiple supply of shooters to a person vodka served in a schooner glass consumption of liquor from a water pistol laybacks, slammers, blasters, bombs and similar jugs of mixed spirits
<ul style="list-style-type: none"> 'Happy hour' and similar time-based activities and promotions conducted over a lengthy period of time 	<ul style="list-style-type: none"> time frame for the promotion is more than 2 hours time frame for promotion occurs after 9 pm¹⁶ and it involves alcoholic beverages with an alcoholic content greater than 3.5% separation between each 'happy hour' less than 4 hours
<ul style="list-style-type: none"> Extreme discounted drinks involving the consumption of alcohol on the licensed premises 	<ul style="list-style-type: none"> discounts of more than 50% all you can drink offers for a set price - 'all you can drink for \$10' 'buy one get one free'
<ul style="list-style-type: none"> More than one free drink¹⁷ A meal deal with more than one drink included in the price or a dinner for two people deal with more than one bottle of wine 	<ul style="list-style-type: none"> 'free drinks until first point scored' (e.g. in conjunction with televised sport event) gender based discounts - 'free drinks for women' 'free drinks for 2 hours' Meal deals with 5 drinks included in the price
<ul style="list-style-type: none"> Undercover (stealth) marketing (marketing where patrons do not realise they are being marketed to)¹⁸ Viral marketing 	<ul style="list-style-type: none"> persons engaged to talk up alcoholic beverage to patrons they befriend, even buying alcoholic beverages for the patron (handing out samples) - a consumer will not only begin using that product themselves, but will also tell their friends about it, inciting a viral

¹⁰ Does not include invitations to members of a club / reward system via a mailing list where persons have acknowledged their willingness to receive such invitations provided the list has not been compiled through a competition or similar activity

¹¹ A method must be adopted to ensure a person does not acquire any more than one alcoholic beverage

¹² This does not stop promotions or activities where consumption will occur at private homes, etc.

¹³ Liquor prizes not consumed on the premises are acceptable

¹⁴ Drink cards, promotional cards, vouchers or incentives distributed on the premises are acceptable provided they only entitle the person to one free drink per person per day – a distribution method must be adopted to ensure a person does not acquire any more than one free drink or more than one drink card

¹⁵ One free drink is acceptable – a distribution method must be adopted to ensure a person does not acquire any more than one free drink

¹⁶ From 9pm until closing time or 5am whichever ever comes sooner

¹⁷ One free drink is acceptable – a distribution method must be adopted to ensure a person does not acquire any more than one free drink. This does not apply to non-commercial activities such as where free drink(s) are provided in conjunction with bona fide meetings - annual general meetings of members of a registered club, attendance at regular meetings of a community group (eg. RSL sub-branch)

¹⁸ Note. For the purposes of clarification, this does not apply to persons employed to promote a brand, who are clearly identified as promoting a brand and who have undergone RSA training

**LIQUOR ACTIVITIES AND PROMOTIONS
SUBJECT TO A NOTICE UNDER SECTION 102**

Activity or promotion	Indicative examples
	marketing campaign • persons engaged to spontaneously and enthusiastically talk up consumption of alcoholic beverages
• Holding a patron's financial-institution card ¹⁹ • Providing alcohol on a credit/ pay later basis ²⁰	• holding a patron's financial-institution card and selling liquor to the patron over several days pending payment when the patron receives their social security benefit
• Liquor activities or promotions in conjunction with competitions that could potentially result in harassment of patrons and staff	• sexually provocative activities • dangerous or unsafe behaviour • lewd and indecent behaviour

¹⁹ Does not apply to an account held on behalf by a corporation for a corporate function. Does not apply to the holding of a person's corporate, business or person financial institution card if the account is settled before the conclusion of trade in which the consumption occurred. Does not apply to guests staying in-house.

²⁰ Does not apply to an account held for or on behalf by a corporation / business for a corporate function. Does not apply if the account is settled before the conclusion of trade in which the consumption occurred