

BUSINESS TECHNICAL ADVISORY PANEL (LIQUOR POLICY)

September 10, 2020

VIA EMAIL

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Attorney-General
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Dr. Bonnie Henry
Provincial Health Officer
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Re: Public Health Order Affecting Hospitality Industry Issued Verbally September 8, 2020

We write in our capacity as the members of the Business Technical Advisory Panel on Liquor Policy (the "Panel"). As you are aware the Panel includes representatives from across BC's liquor industry including those from the hospitality sector.

The members of the Panel recently met and expressed significant concerns regarding certain aspects of the Public Health Order that was issued verbally on September 8, 2020 by the Provincial Health Officer, Dr. Bonnie Henry. While a written order has not yet been issued, a transcript of the verbal orders indicates that the following orders were made:

- all nightclubs and all standalone banquet halls are ordered closed until further notice
- liquor sales in all bars, pubs, and restaurants must cease at 10 PM and these venues must close at 11 PM, unless they're providing full meal service, in which case the meal service can continue, but not serve alcohol
- music or other background sounds such as from televisions in bars, lounges, pubs, and restaurants must be no louder than the volume of normal conversation

The members of the Panel are concerned about both the policy rationale and the economic consequences of these orders and are particularly concerned about these issues in relation to the second order (which ends liquor service in all licensees at 10 pm).

As you are aware, the members of the Panel and their representative members have been absolutely committed to assisting with Provincial Government measures to control COVID-19 including all relevant Public Health Orders. The vast majority of these individual members have been acting responsibly and working diligently to implement these Orders, to ensure that their operations are conducted responsibly, and to safeguard the health of their customers and the general public.

Indeed, Dr. Henry specifically recognized these efforts and the achievements of most operators throughout these sectors in her remarks later in the same press conference:

We know the risk is greatest in nightclubs and bars and we know that most restaurants in particular have been doing a very good job at keeping things under control. We know we had some challenges where people wanted to come in with large groups. We know that those have been dealt with, for the most part, and people are doing the right thing.

As such, it is our understanding that (and Dr. Henry's comments reflect the view that) an extremely high percentage of operators are doing an excellent job of control and that it is only a small percentage of operators that may be having difficulty in enforcing the rules. In addition, it is our belief that such problems are likely focused in particular geographic locations and/or areas and that the problems are not widespread throughout the industry or the province.

Dr. Henry then justified the restrictions by expressing her concerns regarding "late night temptation" and "mixing going on" that could result in exposures and transmission. Of course, the objective, upon which we all agree, is to reduce such exposures and transmission. Our concerns relate to the sweeping nature of the restrictions regardless of how the business is being operated and the relative risks of transmission. Effectively, all operators are being treated as if they have caused problems regardless of how compliant or diligent they have been. We feel that imposing "broad brush" restrictions does not reinforce the positive and necessary message that a majority of operators are doing the right thing. In addition, the impression for everyday consumers is that there are significant, systemic problems, which there are not.

We believe that this result is particularly unfair in respect of the order that ends liquor service at 10 pm regardless of the nature of the establishment or how it operates. This order may catch some situations or locations where there is problem behaviour, but it will also catch a vastly higher number of situations where there is little risk of transmission and where everyone is complying with the rules. For example, if a couple wants to enjoy a quiet late dinner on a patio in their neighbourhood restaurant in Victoria, why should they be denied wine service because a small number of people in a neighborhood in Vancouver are not abiding by the rules?

In our view, it is simply unfair to treat moderate and responsible alcohol consumption as problematic in one place just because a small number of people may be behaving irresponsibly in a completely different place and in different circumstances. It is particularly inappropriate to assume that all alcohol consumption will cause a problem everywhere in the province just because it occurs after 10 pm. Indeed, the early closure of venues that have been operating responsibly will not end problematic consumption or behaviour – it will simply push it underground where there are no rules or restrictions in place and where there are no functional or practical enforcement mechanisms. This is likely to exacerbate any problems.

It appears to us that a better public policy approach would be to ensure that any measures taken are carefully tailored *to correlate with and to address the problem behaviour*. They should not unfairly catch situations where there is little risk of transmission, particularly given that they will have profound economic effects on the businesses involved and upon all of their employees.

Already, we have received reports of the following adverse economic consequences:

- Businesses are reporting a 20%+ drop in revenue in the last 24 hours. For many restaurants and bars, the last hour or two of service makes the difference between profit and loss.
- Yesterday, a chain of respected Lower Mainland food-focused pubs indicated that they will close eight out of 10 of their locations because of the economic effects of the most recent orders.
- Reservations across all sectors are being cancelled: e.g. a busy restaurant in downtown Vancouver reported that it experienced a wave of cancellations following the issuance of the orders (100 people expected for one night reduced to 30 – pre-Covid expectation was 1200 per night).
- A restaurant group in the Interior indicated that it expects to lose between 20-65% of its revenue depending upon location including a complete loss on holiday season business if the orders continue. It expects to lay off 50% of its staff in one location.
- Craft breweries who incorporate food service as a primary part of their business model and stay open until midnight have reported that 10-20 per cent of their revenue is generated from sales after 10 p.m.
- Earlier closures also negatively impact restaurant and pub employees, especially servers, whose hours will be reduced on average of 25 per cent, robbing them of much needed hours and the significant gratuity income that goes along with it.
- Fine dining restaurants across the province are cancelling their last dinner seating as they will not be able to provide the food and wine pairing experience that guests expect resulting in a net loss of 25% in daily sales and well as staff income.
- Evening staff shifts are being cut in half, dramatically impacting the income of those staffers.

Over the last 48 hours, one of our hospitality association stakeholders asked their individual members for feedback on the effects of these orders on their revenue. So far, we are able to estimate that:

- For downtown Vancouver pubs (not night clubs), almost 50% of their sales revenue is generated after 10 pm.
- For urban pubs outside the city core, about 25% of their sales revenue is generated after 10 pm.
- For rural pubs, about 10% of their sales revenue is generated after 10 pm.

We urge you to consider the far-reaching and long-lasting economic consequences of these orders. The revenue reductions indicated above will have a devastating effect on the hospitality industry. The average profit margin of these businesses is very slim (for restaurants, it is 4%). Most dine-in restaurants, bars and tasting lounges are already operating at between 25% and 75% of previous capacity due to pandemic restrictions and lack of guest confidence. They simply cannot absorb further drops in revenue when they have invested significant amounts to re-configure their operations and have been operating carefully and in compliance with the rules. There will be mass business closures, bankruptcies and job losses if these policies continue for any significant period of time.

Specifically, we request and suggest that it would be appropriate to consider the following:

1. Greater enforcement (including closures) of non-compliant venues and customers would target the problem areas directly rather than unfairly affecting good operators. The Public Health Officer has ample authority to do this. We wholeheartedly support such orders and closures in appropriate circumstances.
2. Extending the end of liquor service from 10 pm to 12 midnight would provide a more reasonable operating time frame and economic model for the businesses involved. If necessary, problematic venues could be ordered to close earlier on a case by case basis.
3. Provide transparent timelines and/or public health targets such that businesses can gauge the long-term effect of any restrictions. Indefinite closures make it impossible for businesses to plan for any reopening and will result in immediate job losses.

Yours sincerely,

Members of the Business Technical Advisory Panel

- Jeff Guignard, *BC's Alliance of Beverage Licensees*
- Mark Hicken, *Vintage Law Group*
- Ken Beattie, *BC Craft Brewers Guild*
- Ian Tostenson, *BC Restaurants and Foodservices Association*
- Miles Prodan, *BC Wine Institute*
- Jeremy Chorney, *Canada's National Brewers*
- Tyler Dyck, *Craft Distiller's Guild of BC*
- Ted Latimer, *Import Vintners & Spirits Association*
- Mark von Schellwitz, *Restaurants Canada*
- Trent Leggett, *Rural Agency Store Advisory Society*
- Jan Wescott, *Spirits Canada*

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CC

- Mary Sue Maloughney, Assistant Deputy Minister and General Manager of the LCRB
- Megan Harris, Executive Director, Corporate Priorities & Strategic Engagement