

Delegate of the Director of Liquor Licensing

Decision Notice

MATTER:	Contravention of the <i>Liquor Act 2019</i>
LICENSEE:	Best Venues Pty Ltd
VENUE:	Motel Loco
LEGISLATION:	Section 293(1) of the <i>Liquor Act 2019</i>
DECISION OF:	Delegate of the Director of Liquor Licensing
DATE OF DECISION:	19 April 2024

BACKGROUND

1. Best Venues Pty Ltd. is the licensee for Motel Loco, licence number 80317973. The licensed premises is situated at 52 Mitchell Street, Darwin, NT 0800.
2. The Nominee is Mr Maurice D'Arrigo.
3. Section 20 (1) of the *Liquor Act 2019* (Act), provides that the Commission may establish codes of practice to regulate the advertising and promotion of liquor. Section 20 (2) of the Act provides that the Commission must publish any code of practice it established. Section 20 (3) of the Act provides that it is a condition of a licence that the licensee comply with the provisions of any code of practice established and published by the Commission.
4. On 21 October 2020, the Commission established a Code of practice for the responsible advertising and promotion of liquor (Code) and a Code of practice for responsible advertising and promotion of liquor - guidance note (Guidance Note). These documents are published and made available on the Commission's website.
5. On Monday 30 October 2023, Licensing NT were advised by a member of the public that her daughter and several of her female and male friends attended Motel Loco late in the evening of 27 October 2023. At this time, female staff of the licensee were positioned at the payment booth inside the entrance to the premises and advised that the entry fee is \$25. The female staff further stated "if they were prepared to remove their bras, the entry fee is \$10" and "if they were prepared to also remove their underwear, the entry fee is free".
6. One of the youngest of the group removed her underwear and placed them in a bag the door staff were using to collect patrons underwear. Members of the group noticed this and began to argue with door staff by demanding they return their friend's underwear. They retrieved their friend's underwear from a bag and tried to shield their friend from view of other patrons and staff while she put her underwear back on. They then all entered the club.
7. On 8 November 2023, a complaint against the licensee was formally lodged and accepted by the delegate for the Director of Liquor Licensing. On the same day, the Mr D'Arrigo the nominee for licensee was formally advised and given the opportunity to provide a response to the complaint.
8. On 26 February 2024, the Delegate of the Director of Liquor Licensing (Delegate) identified an error in the complaint against the licensee dated 8 November 2023.

9. On 28 February 2024, a revised complaint was referred to the licensee's nominee Mr. D'Arrigo and given the opportunity to provide a response to the complaint.

PARTICULARS OF COMPLAINT

Allegation - Section 285 – Prohibition of liquor to intoxicated person

On 27 October 2023, it is alleged that the Licensee contravened section 293 (1) of the Act underpinned by Code of Practice for the Responsible Advertising and Promotion of Liquor and the associated Guidance Notes, specifically the licensee by promoting the \$25:00 cover charge to enter Motel Loco could be reduced by:

- i. Females removing their bra - \$10:00 cover charge
- ii. Females removing their bra and underwear – free entry
- iii. Males could elect to remove their shirt for \$10:00 cover charge

Licensee's response to complaint

10. On 28 February 2024, Mr. D'Arrigo provided a written response to the complaint and is summarised below:
- i. There was no provision made in the Event Meeting held with the promo [promotional] team and the licensee in relation to the \$25 door charge promoting the removal of specific or any garments.
 - ii. No such door promotion was advertised on any social media platform.
 - iii. Tickets sold online, did not specify the removal of any garments.
 - iv. The decision to carry out such door entry conditions was not discussed with the licensee or its representatives and would have never been supported if it had.
 - v. These conditions of entry goes against the morals and values of the licensee.
 - vi. Effective from the date of this complaint, the licensee ordered that any such entry conditions were never to be implemented again.
 - vii. The licensee has expressed its remorse and sincerely apologised for what occurred.

Investigation of Complaint

11. Licensing NT Senior Compliance Officer Holehouse commenced an investigation into the complaint noting the obligations of the Licensee pursuant to the Act, in particular, the Code and Guidelines referred in paragraph 4 above.
12. The evidence for the complaint was based on CCTV footage provided by the licensee.

Analysis of Evidence

13. In making this determination, the following facts have been relied on:
- i. Code of practice for the responsible advertising and promotion of liquor (Code) and a Code of practice for responsible advertising and promotion of liquor - guidance note.
 - ii. CCTV footage revealed that between 22:00 hours on 27 October and 01:00 hours on 28 October 2023, a total of 54 patrons, comprising of 11 females and 43 males, removed an article of clothing to gain a discounted entry to the licensee's premises.
 - iii. The response of the licensee wherein it made full admissions and expressed remorse in regard to the substance of the complaint.
 - iv. The statutory delegation of Senior Compliance Officer Holehouse.

DECISION

14. In respect to the allegation, that being a breach of section 293 (1) of the *Liquor Act 2019*, I am satisfied that sufficient evidence exists to justify taking further action against the licensee.
15. After considering all the facts in this matter, I have taken in to account that the licensee and its nominee made full admissions in regard to the substance of the complaint. The licensee has expressed sincere remorse and provided an assurance that there will never be a recurrence of such a promotion.
16. The licensee is reminded of its obligation to comply with the legislative framework and any future non-compliance may be referred to the Northern Territory Liquor Commission for further disciplinary action.
17. Pursuant to section 163 (1) (d) of the Act, I have determined to issue an infringement notice of 5 penalty units.

REVIEW OF DECISION

18. Section 27(1) of the *Liquor Act 2019* provides that an affected person for a delegate decision may apply to the Director for a review of the decision.
19. Section 27(2) of the *Liquor Act 2019* sets out the procedures for applying for a review of a delegate decision. Such application must be made within 28 days after written notice of the delegate decision is given to the affected person unless the Director extends the time allowed for making an application.
20. The affected persons in this matter is the licensee.



Bernard Kulda

Delegate of the Director of Liquor Licensing

26 April 2024