

From: Grace Ockwell
To: phillippa.clifford@progressive.co.nz
Cc: [Tony Mole](#)
Subject: LGOIMA request
Date: Wednesday, 6 May 2015 02:43:27 p.m.
Attachments: [PGL LGOIMA Countdown Documents to be released with response.pdf](#)

Dear Phillippa,

Thank you for your email of 24 April 2015 requesting that our decision to withhold information in our response letter of 23 April 2015 be reconsidered.

Having reviewed our decision, we now provide records of correspondence with licensees and advise that the names and all identifying details of licensees have been redacted.

The information is withheld pursuant to section 7(2)(a) of LGOIMA in order to protect the privacy of individuals and pursuant to section 7(2)(b)(ii) as the making available of the information would be likely unreasonably to prejudice the commercial position of the person who is the subject of the information.

As we have withheld information, you have the right pursuant to section 27 of LGOIMA to have our decision to withhold information reviewed by the Office of the Ombudsman.

Yours sincerely

Grace Ockwell

Governance Support Officer

Dunedin City Council

50 The Octagon, Dunedin; PO Box 5045, Moray Place, Dunedin 9058, New Zealand

Telephone: 03 474 3487, Fax: 03 474 3594

Email: grace.ockwell@dcc.govt.nz; www.dunedin.govt.nz



Please consider the environment before printing this e-mail

Tony Mole

Subject:

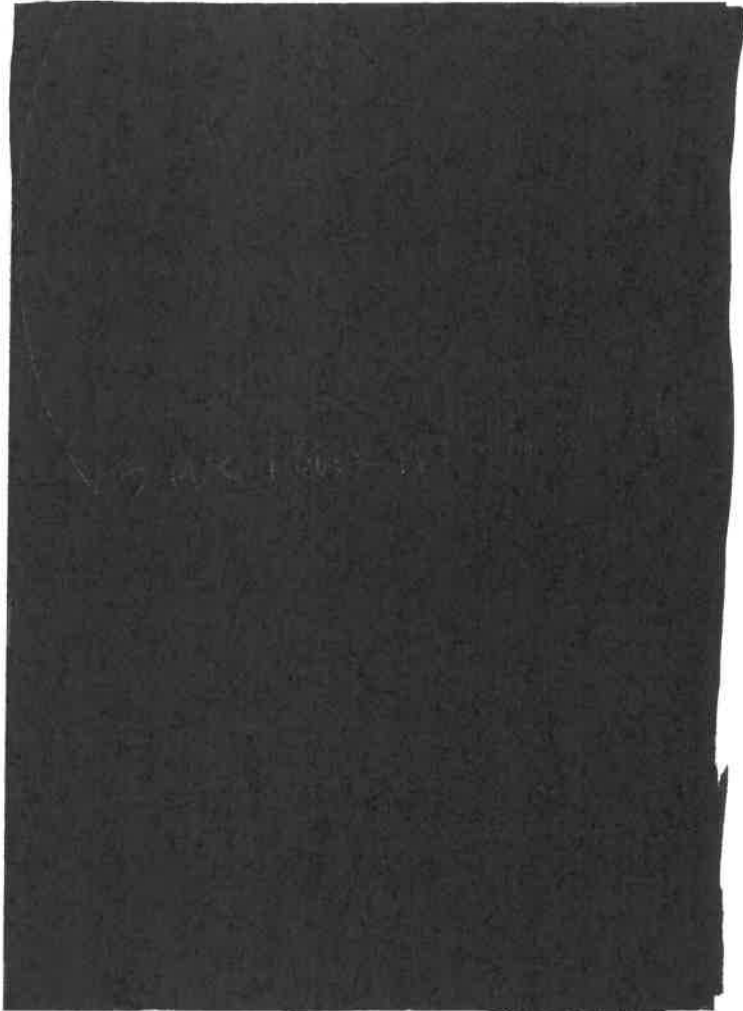
FW: Section 237 (e)

From: Tony Mole

Sent: Monday, 14 July 2014 3:49 p.m.

To: [REDACTED]

Subject: Section 237 (e)



237 Irresponsible promotion of alcohol

- (1) A person commits an offence if, in the course of carrying on a business, the person
- (a) does anything that encourages people, or is likely to encourage people, to consume alcohol to excess, whether on licensed premises or at any other place; or
 - (b) promotes or advertises discounts on alcohol in a way that leads people to believe that the price is 25% or more below the price at which the alcohol is ordinarily sold;
 - (i) on licensed premises; or
 - (ii) in the catalogue or similar price-list of the holder of an off-licence;
 - (c) holds or has on licensed premises a promotion or advertisement of alcohol that
 - (i) leads people, or is likely to lead people, to believe that the price is 25% or more below the price at which the alcohol is ordinarily sold; and
 - (ii) can be seen (or, in the case of an audible promotion or advertisement, heard) from outside the premises; or
 - (d) promotes or advertises alcohol that is free of charge (otherwise than by means of an offer made only on licensed premises) that
 - (i) by promoting or advertising the complimentary sampling of alcohol for which an off-licence is held; or
 - (ii) by a promotion or advertisement within licensed premises that can be seen (or, in the case of an audible promotion or advertisement, heard) from outside the premises;
 - (e) offers (otherwise than by means of an offer made only on licensed premises) any goods or services, or the opportunity to win a prize, on the condition that alcohol is purchased (or consumed) in connection with the buying of alcohol on those premises; or
 - (f) promotes or advertises alcohol in a manner aimed at, or that has, or is likely to have, an effect on, minors.

I understand that Martine Cashell-Smith has previously advised you that your [REDACTED] promotion is a breach of the Act. I'm happy to pursue this if you wish.

Regards

Tony

Tony Mole
Licensing Inspector

Dunedin City Council
50 The Octagon, Dunedin 9016; PO Box 5045, Dunedin 9058, New Zealand
Telephone (direct dial) 03 474 3408
Fax: 03 474 3523

Tony Mole

From: Tony Mole
Sent: Tuesday, 15 July 2014 01:04 p.m.
To: [REDACTED]
Subject: RE: Query

Hello

No issue about whether the serving size is beer plus head or not. It's a fiscal issue for the seller really.

The free sample bit is a bit more interesting as section 237 says

A person commits an offence if, in the course of carrying on a business, that person

- (d) promotes or advertises alcohol that is free of charge (otherwise than—
 - (i) by promoting or advertising the complimentary sampling of alcohol for consumption on premises for which an off-licence is held; or
 - (ii) by a promotion or advertisement within licensed premises that cannot be seen (or, in the case of an audible promotion or advertisement, heard) from outside the premises); or

So, it's advertised only on site and not externally then you're fine. I would suggest that every person at the event will go for such a freebie though!

Tony

From: [REDACTED]
Sent: Tuesday, 15 July 2014 12:57 p.m.
To: Tony Mole
Cc: [REDACTED]
Subject: Query

Hey Tony,

Cheers for replying to [REDACTED] We'll be sure to keep you in the loop and have it on the application.

I have two questions based on experiences with other festivals.

Our glass this year has a 330ml capacity. Pours will be the same as last year, 150ml taste and 300ml with prices varying on alcohol percentage. One brewery brought up that another festival counted the head as part of the pour. Our glass is designed to have space for head, although most pours will be in the 300ml range, some will naturally have head that will go over this line. Will that be an issue? Will we have to tell breweries that the 300ml line is where head is allowed to go up to?

I realise that's pretty finicky but I just wanted to be clear on it.

We've also been approached by a brand that is launching their new beer and were keen to look into giving away a free sample to those people visiting the stall, as well as giving out free tasters in the VIP space. If they

had their duty manager on site and all those who received a free taster were marked so they couldn't get more than one would this be OK to do?

Of course we will put all of this into the application I just wanted to know what to go back and tell the brewery before we lock them in to anything.

Thanks for your help, I look forward to hearing back from you.

Cheers,

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Tony Mole

From: Tony Mole
Sent: Friday, 21 February 2014 02:24 p.m.
To: [REDACTED]
Subject: [REDACTED]

Hello

Since the Sale and Supply of Alcohol Act 2012 came into force in its entirety on 18 December 2012, the promotions section has become much broader.

Section 237 now refers to "A person commits an offence" rather than "Every person commits an offence and is liable on conviction to a fine not exceeding \$5,000 who, being a licensee or manager of licensed premises". That is, previously pub crawl businesses were not in breach of the Act as the companies did not hold a licence.

The Act gives the police the ability to prosecute at District Court as

"A person commits an offence if, in the course of carrying on a business, that person does anything that encourages people, or is likely to encourage people, to consume alcohol to an excessive extent, whether on licensed premises or at any other place". And if the sections are considered with the object of the Act 4(1)(a) "that the sale, supply, and consumption of alcohol should be undertaken safely and responsibly" then these types of activities can be argued as being as clearly being a breach.

Promoting the free drink aspect of the deal is obviously a breach.

This is a police issue and it's in their hands whether they wish to pursue this.

Regards

Tony

Tony Mole
Licensing Inspector

Dunedin City Council
50 The Octagon, Dunedin 9016; PO Box 5045, Dunedin 9058, New Zealand Telephone (direct dial) 03 474 3408
Fax: 03 474 3523
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Email: tmole@dcc.govt.nz; www.dunedin.govt.nz

Tony Mole

From: Tony Mole
Sent: Friday, 21 February 2014 04:59 p.m.
To: [REDACTED]
Subject: [REDACTED]

Thank you

From: [REDACTED]
Sent: Friday, 21 February 2014 4:56 p.m.
To: Tony Mole
Subject: [REDACTED]

Hi Tony,

Online issues have been resolved, Facebook and website have been fixed. Websites that have been opened in the last 3 hours with hold a cashé so you might need to refresh a few times or wait to see.

Thanks [REDACTED]

[REDACTED]

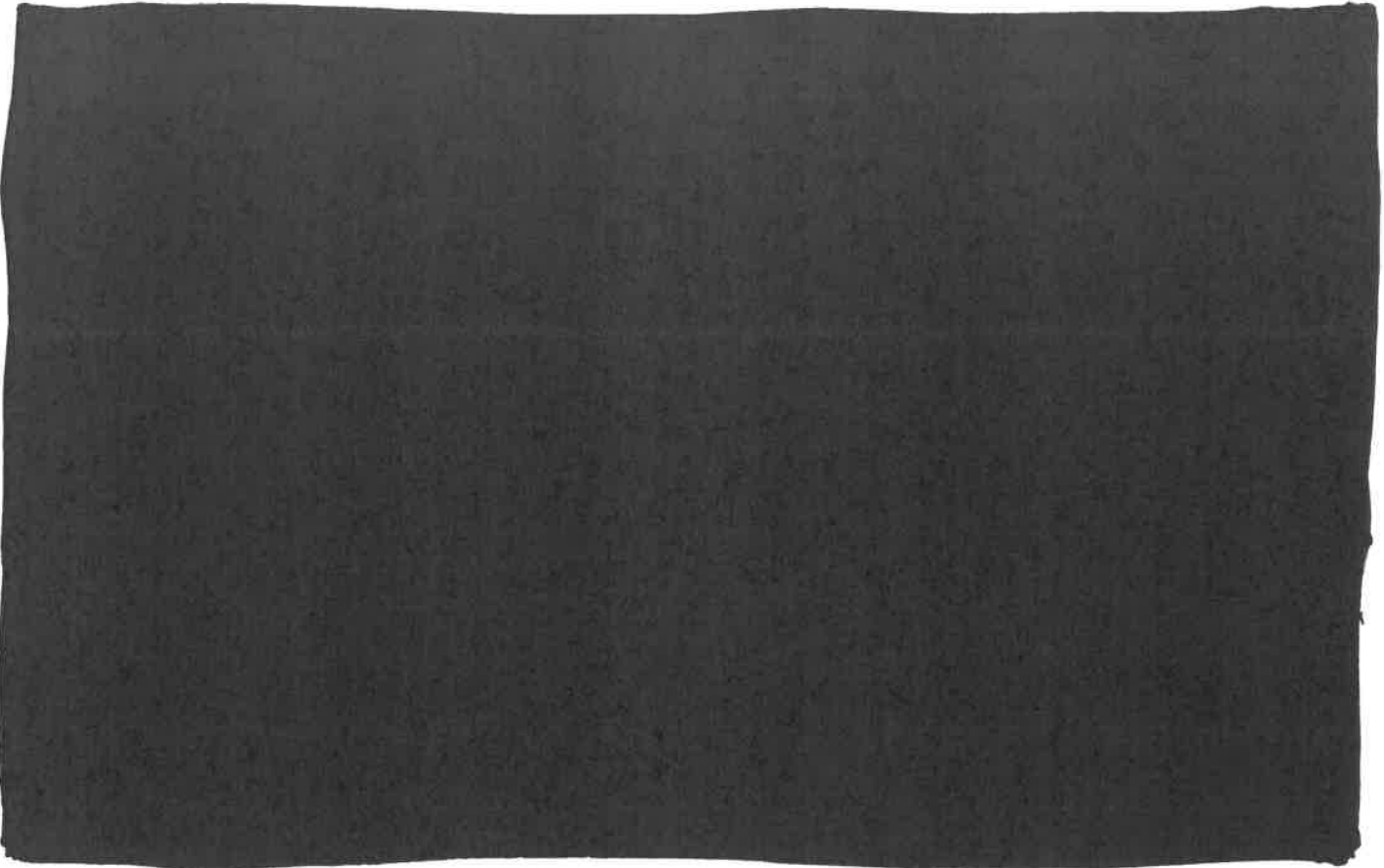
[REDACTED]

[REDACTED]

On 21 February 2014 15:07, Tony Mole <tmole@dcc.govt.nz> wrote:

Your website currently has the below so suggesting that you now comply is incorrect.

Tony



From: [REDACTED]
Sent: Friday, 21 February 2014 12:33 p.m.
To: Tony Mole
Subject: [REDACTED]

Hi Tony,

Please see what was meant to go to print.

(It has gone to you via DropBox as file was to big for DCC emails)

Please be assured we have done our home work and abide by the Sale and Supply of Liquor Act.
There is NO free drink given out, and any discounts are under 24%. Drinks that are supplied are paid for to the bar. All customers can have a non alcoholic option.

Please see the email sent to the Queenstown DLA to appease their concerns.

Thank you for your time yesterday to discuss the new laws coming into effect.

As requested attached is a list of bars, timetable and the price the customers are paying for the drinks/shots included in their tour.

Please note:

- The 'shots' are named crawl shots as they are lower alcohol volume than normal shots offered to general customers.
- Crawl shots are only available to "supervised guests" in a bar
- Only ONE per person is allowed
- Vouchers can ALWAYS be redeemed for non alcoholic drinks as stated on them

These steps have been put in place to ensure the bars are not breaching section 237 of the sale and supply of liquor act 2012

Tony if you have any further concerns please do not hesitate to contact me. If you could also email the bars you contacted yesterday to state we have rectified the incorrect advertising you addressed yesterday. Please advise me when this has been done.

Kind regards

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

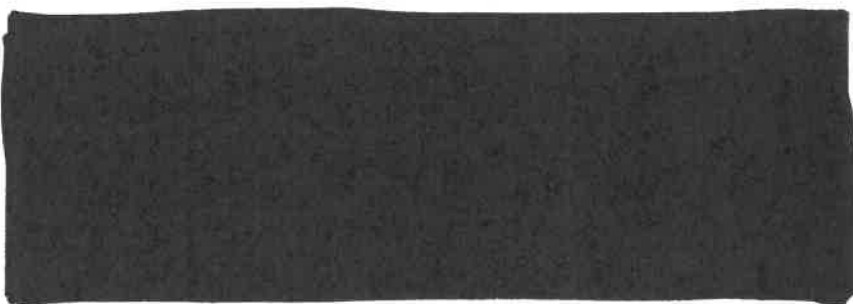
Tony Mole

From: Tony Mole
Sent: Tuesday, 18 March 2014 09:44 a.m.
To: [REDACTED]
Cc: PAULIN, Ian; Martine Cashell-Smith
Subject: Section 237

Hello

Just one month ago, I had cause to remind you that section 237 states A person commits an offence if, in the course of carrying on a business, that person promotes or advertises alcohol that is free of charge.

Imagine my surprise when I saw this at [REDACTED] yesterday



The complete section is here too. You will see that the penalties include a fine (if this went through District Court) or a suspension (if this went through ARLA).

I am a little bemused at why [REDACTED] cannot grasp this concept that is clearly defined in the Act.

Tony

237 Irresponsible promotion of alcohol

- (1) A person commits an offence if, in the course of carrying on a business, that person—
- (a) does anything that encourages people, or is likely to encourage people, to consume alcohol to an excessive extent, whether on licensed premises or at any other place; or
 - (b) promotes or advertises discounts on alcohol in a way that leads people, or is likely to lead people, to believe that the price is 25% or more below the price at which the alcohol is ordinarily sold (otherwise than—
 - (i) on licensed premises; or
 - (ii) in the catalogue or similar price-list of the holder of an off-licence endorsed under section 40); or
 - (c) holds or has on licensed premises a promotion or advertisement of discounts on alcohol that—
 - (i) leads people, or is likely to lead people, to believe that the price is 25% or more below the price at which the alcohol is ordinarily sold; and
 - (ii) can be seen (or, in the case of an audible promotion or advertisement, heard) from outside the premises; or
 - (d) promotes or advertises alcohol that is free of charge (otherwise than—
 - (i) by promoting or advertising the complimentary sampling of alcohol for consumption on premises for which an off-licence is held; or
 - (ii) by a promotion or advertisement within licensed premises that cannot be seen (or, in the case of an audible promotion or advertisement, heard) from outside the premises); or
 - (e) offers (otherwise than by means of an offer made only on licensed premises, and made only in relation to the buying of alcohol on those premises) any goods or services, or the opportunity to obtain any goods or services, or the opportunity to win a prize, on the condition that alcohol is bought; or
 - (f) promotes or advertises alcohol in a manner aimed at, or that has, or is likely to have, special appeal to, minors.
- (2) Subsection (1)(e) does not apply to a loyalty programme that provides rewards or discounts, unless the rewards or discounts apply only or primarily to alcohol.
- (3) A person who commits an offence against this section is liable on conviction,—
- (a) in the case of a licensee, to either or both of the following:
 - (i) a fine of not more than \$10,000;
 - (ii) the suspension of the licensee's licence for a period of not more than 7 days;
 - (b) in the case of any other person, to a fine of not more than \$10,000.

Regards

Tony

Tony Mole
Licensing Inspector

Dunedin City Council
50 The Octagon, Dunedin 9016; PO Box 5045, Dunedin 9058, New Zealand
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Fax: 03 474 3523
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Tony Mole

From: Tony Mole
Sent: Monday, 14 July 2014 01:12 p.m.
To: [REDACTED]
Subject: [REDACTED]

Hello

Three things have cropped up with my recent visit to [REDACTED]

1. Selling beer pong kits. I consider this to be a breach of the object of the Act and also section 237.
2. Selling alcohol that does not comply with the labelling requirements of Australia New Zealand Food Standards Code. That is, single shot vessels being sold on the counter. These are removed from the box from which they came in and placed in a display for purchase individually and are not labelled.
3. Selling single serve cans and bottles. We would like [REDACTED] agree to a condition such as "There is not to be any sale of single shots or single units of beer, cider or RTDs in less than 445ml packaging with the exception of boutique and handcrafted beer and cider".

Regards

Tony

Tony Mole
Licensing Inspector

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Fax: 03 474 3523
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Tony Mole

From: Tony Mole
Sent: Thursday, 18 September 2014 01:46 p.m.
To: [REDACTED]
Subject: section 237

Hello

As daft as it seems, you cant advertise complementary alcohol any more. It's also a moot point that if you pay \$40 to get in then the drink's not complementary anyhow. I'm not asking you to reprint anything but if you can just kill the word complementary then the advert will be compliant.

Tony

[REDACTED]

237 Irresponsible promotion of alcohol

- (1) A person commits an offence if, in the course of carrying on a business, that person—
- (a) does anything that encourages people, or is likely to encourage people, to consume alcohol to an extent, whether on licensed premises or at any other place; or
 - (b) promotes or advertises discounts on alcohol in a way that leads people, or is likely to lead people, to believe that the price is 25% or more below the price at which the alcohol is ordinarily sold (otherwise than—
 - (i) on licensed premises; or
 - (ii) in the catalogue or similar price-list of the holder of an off-licence endorsed under section 237); or
 - (c) holds or has on licensed premises a promotion or advertisement of discounts on alcohol that—
 - (i) leads people, or is likely to lead people, to believe that the price is 25% or more below the price at which the alcohol is ordinarily sold; and
 - (ii) can be seen (or, in the case of an audible promotion or advertisement, heard) from outside the premises; or
 - (d) promotes or advertises alcohol that is free of charge (otherwise than—
 - (i) by promoting or advertising the complimentary sampling of alcohol for consumption on licensed premises for which an off-licence is held; or
 - (ii) by a promotion or advertisement within licensed premises that cannot be seen (or, in the case of an audible promotion or advertisement, heard) from outside the premises); or
 - (e) offers (otherwise than by means of an offer made only on licensed premises, and made only on the buying of alcohol on those premises) any goods or services, or the opportunity to obtain goods or services, or the opportunity to win a prize, on the condition that alcohol is bought; or
 - (f) promotes or advertises alcohol in a manner aimed at, or that has, or is likely to have, a particular effect on minors.

Regards

Tony

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