



CASE NOTE C (Liquor – Internal Review) [2020] VCGLR 35 (1 May 2020)

In the matter of an application under section 153 of the *Liquor Control Reform Act 1998* for internal review of a decision to refuse an application for the approval of a person to be a director of the licensee.

Commission: Ms Helen Versey, Deputy Chair
Ms Deirdre O'Donnell, Deputy Chair
Ms Danielle Huntersmith, Commissioner

Date of Hearing: 12 December 2019

Date of Decision: 11 March 2020

Date of Reasons: 11 March 2020

Date of Publication: 1 May 2020

Decision: The Commission determined to affirm the decision of the delegate and refuse to approve the person as a director of the licensee.



CASE NOTE

1. On 2 August 2019, a delegate of the Victorian Commission for Gambling and Liquor Regulation (**Commission**) refused to approve a person to be director of a Licensee operating an online liquor business on the basis that the Applicant was not a suitable person to hold a liquor licence. The Delegate found that the Applicant did not possess the requisite knowledge of the LCR Act to perform his duties as the sole director of the Licensee and, additionally, the Applicant had continued to supply liquor not in accordance with the LCR Act (as an unapproved director) for five months after the previous directors of the Applicant had been removed as directors of the Licensee (**the Original Decision**).
2. In September 2019, the Applicant applied for internal review of the Original Decision under section 153 of the *Liquor Control Reform Act 1998* (**the LCR Act**) (**the Review Application**).
3. In accordance with section 154 of the LCR Act, the Commission notified Victoria Police of the Review Application. Victoria Police confirmed that they maintained their objection on the ground that the Applicant was not a suitable person to hold the licence.
4. On 11 March 2020, the Commission handed down its decision regarding the Review Application.
5. On the question of whether the Applicant is not a suitable person to hold the licence, the Commission considered two main issues (amongst other factors):
 - whether the Applicant possessed adequate knowledge of the LCR Act; and
 - the Applicant's actions contrary to section 44(3)(b) of the LCR Act by engaging in activities involving the trading or marketing of liquor in a manner contrary to the provisions of the LCR Act as the sole person in control of the Licensee.
6. The Commission found that the Applicant had supplied liquor whilst not having an approved director for some five months. In all the circumstances, including:
 - the Applicant's contravention of the LCR Act over the relevant period;
 - an application process that was protracted and featured mistakes;
 - the Applicant's failure to demonstrate detailed, existing processes to managing the risk of potentially supplying liquor to a minor;
 - the Applicant's failure to make enquiries as a prospective director as to whether he could supply liquor until his application to be approved as director was decided; and
 - having regard to the objects of the LCR Act;
 - the Commission was not satisfied the Applicant had an adequate knowledge of the LCR Act for the purposes of section 44(2)(b)(iii). The Commission takes very seriously cases where supply of liquor occurs in breach of the LCR Act.



7. The Commission determined to affirm the decision of the Delegate and refuse to approve the person as a director for the Licensee company.
8. The Commission decided not to publish its reasons for decision in this instance due to privacy considerations relating to the Applicant, but publishes this case note in the interests of transparency.