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## Key liquor regulation issues interrogated at WCLA Liquor Consultants Forum

On Monday 31 October 2022, the Western Cape Liquor Authority (WCLA) facilitated its quarterly Liquor Consultants Forum (LCF), aiming to interrogate key issues related to liquor regulation in the Western Cape.

The agenda included progress updates on key projects (such as the new eLicence Portal), discussion on issues raised by Consultants, and requirements for licensing and compliance processes.

The meeting was opened by the Chairperson of the Governing Board of the WCLA, who highlighted the strategic alignment of the WCLA to the provincial government's safety priorities and the progress being made regulating liquor more effectively. Despite being a small public entity, the WCLA is recognised as a key role player to bring about safe and cohesive communities. Mr Kingwill also indicated that in the perceived conflict between economic growth and reducing alcohol-related harms, a zero-sum game is not applicable.

The Chief Executive Officer of the WCLA, Mr Simion George, followed this introduction by affirming the commitment of the WCLA to develop and improve the forum to be a meaningful platform for engagement which can be utilised to the mutual benefit of Consultants and the Authority. The purpose of the LCF was reiterated as aiming to:

- Enhance the regulatory mandate of the WCLA.
- Develop an appreciation and respect for public interest.
- Enable the expeditious processing of applications.
- Enable communication on interventions and policy imperatives.
- Facilitate knowledge and information sharing.
- Promote compliance with regulatory systems and processes.
- Respond to licence processing matters on merit and maintain remedies allowed for as per legislation.

Mr George reminded attendees that the Authority must account for its resources and has thus implemented a clear strategy to regulate liquor more effectively in the public interest. As the entity becomes more efficient and effective, its regulatory impact will be enhanced. This will then translate into an increased appreciation of regulation and compliance. Each and every licence that exists – once it has been granted – must continue to serve the public interest. Ultimately, the facilitation of public interest is central to what the WCLA is required to do. If there is no appreciation for regulation and compliance, this drives up the costs of regulation in response to unsafe and illegal trading, which contributes to alcohol-related harms. These costs must be borne by the industry.

Thus, it makes good business sense to be compliant, and respect public interest.

Additional matters addressed by Mr George include the following:

- In addition to the system and process enhancements undertaken by the WCLA, the streamlining of communication 'contact points' has been prioritised.
- The Western Cape Liquor Act (the Act) provides mechanisms and due process, which should be utilised for dealing with any and all matters related to liquor regulation.
- The participation of the Liquor Licensing Tribunal (LLT) in the LCF is limited to procedural aspects and directives issued as allowed for within the legislative framework.
- The WCLA is mindful that all stakeholders must be provided opportunities to engage the Authority, without developing parallel processes that favour those with privilege or enhanced access and ability (e.g. meetings conducted via online platforms to which some people do not have access).
- The Liquor Licensing Administration (LLA) receives a high number of applications that on the face of it are incomplete or lack information required in terms of the prescribed form. The LLT equally postpones a high number of applications to accommodate late submission of important documentation, which results in inefficiencies and delayed processing timelines. Regulations state that an applicant is solely responsible for the correctness of any application or notice submitted by or on behalf of the applicant. The Presiding Officer of the LLT will be requested to consider issuing a directive in this regard outlining parameters to ensure the determination of public interest is facilitated. The prospect of this directive was welcomed by Consultants in attendance, as the parameters will provide much-needed guidance for all involved in the process.

Progress updates were provided on two key strategic projects of the WCLA:

#### Development of an Online Client Services Platform

- The new eLicence Portal went live on 1 October 2022. As at 31 October 2022, 516 user profiles have been created (7.1% of potential user profiles). A total of 1635 user logins have been recorded and 62 licence holders have paid their renewal fees online.
- The launch of this portal is a significant step in the digital transformation journey of the WCLA, as it works to improve its efficiency and accessibility, and create value for all stakeholders.
- By creating a profile on the first phase of the eLicence Portal, licence holders are able to:
  - Manage their liquor licence
  - Process their licence renewal online
  - Download a Confirmation of Renewal
- Prior to the general launch, licence holders were invited (via email and SMS) to participate in the BETA version testing of the eLicence Portal. Within 48 hours over 200 volunteers signed up, so additional spots were added due to the significant interest – resulting in a testing group of 60 participants. A total of 18 of these users successfully renewed their liquor licence using the portal.

- A proxy/representative can create a profile on behalf of the licence holder. One profile on the eLicence Portal is created per licence holder. If a licence has multiple licences, they will all be linked to the same profile. However, a profile cannot be linked to multiple licence holders.
- The next phase of the Online Client Services Platform, is scheduled to go live by 01 April 2023. On such date new applications can be lodged online.

#### Implementation of Section 64 of the Act

- The enhanced inspectorate capacity of the WCLA enabled the implementation of Section 64 (non-automatic renewals), which requires that all licensed premises are inspected annually to ensure fairness, equality and justice in the application of Section 64.
- There is no room for the WCLA to not implement Section 64. If a licence meets the relevant criteria for non-compliance during the period under review, it is not capable of automatic renewal and must be subjected to non-automatic renewal.
- In the first year of implementation, there were 116 licences not capable of automatic renewal for 2023 (1.3% of the total valid licences in the Western Cape).
- A total of 106 applications for renewal of licence have been lodged, and 2 licensees have indicated that they will not renew their licence. The applications are currently being considered by the LLT.
- It is encouraging to see the attitude of licensees who are subjected to Section 64 and have taken ownership of the reasons for this result and committed to improved compliance going forward. This speaks to the objective of Section 64, to cultivate compliance and the ongoing consideration of public interest.

The remainder of the meeting was dedicated to discussion of questions and comments raised by the Liquor Consultants (either in writing prior to the meeting or verbally). The issues raised and responses provided by the WCLA team included the following:

- 1. There are instances where updated licence holder information has been submitted, but the updates are not processed in the system.**

WCLA response: *This will be investigated and specific details of the instances are requested to determine where the issue lies.*

- 2. During the renewal process, there is no confirmation once the renewal fee has been paid.**

WCLA response: *The launch of the eLicence Portal includes the availability of a new 'Confirmation of Renewal' document, which serves as proof that the renewal has been successfully processed.*

- 3. The limited number of licences subjected to Section 64 demonstrates that the issue lies with unregulated/illegal liquor traders, not with licensed outlets.**

WCLA response: *We agree that unregulated/illegal outlets contribute enormously to alcohol-related harms. However, the distribution of liquor stems from regulated outlets and our focus is on the upstream*

interventions to limit this distribution through compliance enforcement related to volumes traded for example.

**4. The implementation of Section 64 is unconstitutional.**

WCLA response: The legislation could indeed be revisited, but the legal process to challenge it would have to play out. The Western Cape Liquor Authority, as an entity attached to the Western Cape Government will abide by any court decision that is obtained. In the meantime, though, we are required to execute our mandate and we are comfortable that the legislation is clear on the purpose of Section 64 to compel compliance through a review of the licence and not punish licence holders unfairly. We will not sit back and rest, but have committed ourselves to doing our job as effectively as possible.

**5. It is not reasonable that the original licence of a previous licence holder must be displayed when a licence has been transferred.**

WCLA response: This is a fair point and we will explore the options to amend the Regulations in this regard.

**6. Liquor Inspectors are unnecessarily aggressive when inspecting licensed premises.**

WCLA response: Kindly provide details of specific incidents so that they can be investigated. The role of the Inspector is currently evolving to move away from a policing or law enforcement approach, but to rather focus on compliance monitoring and enabling licensees to trade legally and safely.

**7. When comments or objections are received for new licence applications, the applicant is notified and requested to respond within 7 days for each and every comment, which can result in numerous individual requests from the admin personnel. Can we request that any replication to comments be submitted all together, within 7 days after the SAPS report and Municipal reports are also received?**

WCLA response: Yes, this makes sense and we will explore making this possible.