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18 December 2025

By email

Attention: Legal Section
Australian Human Rights Commission
GPO Box 5218
Sydney NSW 2001

legal@humanrights.gov.au

Application for further exemption under section 44 of the Age Discrimination Act 2004 (Cth)

We act for 7 Holdings Pty Ltd and its wholly owned subsidiaries.

1. Who is seeking the exemption?

7 Holdings Pty Ltd and its wholly owned subsidiaries, 7-Eleven Stores Pty Ltd and Convenience Holdings Pty Ltd (together, 7-Eleven), were granted a section 44 exemption from section 28 of the *Age Discrimination Act 2004 (Cth)* (the Act) on 7 March 2023 for a period of three years (the Current Exemption). The Current Exemption and its application are **enclosed**.

7-Eleven now seeks a further exemption in accordance with section 44(2) of the Act.

7-Eleven has approximately 780 convenience stores around Australia (in all States and Territories, excluding Northern Territory, South Australia and Tasmania). Some stores are operated by 7-Eleven directly while others are franchise arrangements. Approximately 672 stores also sell fuel. 7-Eleven is one of Australia's largest private companies.

The exemption would apply to all 7-Eleven stores, whether operated directly or through its franchise network.

2. How long is the exemption sought for?

7-Eleven is seeking a further exemption for five years.

Noting that there has been limited relevant research published in the three years since the Current Exemption was granted, 7-Eleven considers that an exemption for a period of five years is necessary and reasonable to allow for further research to be undertaken into the potential consequences associated with persons under the age of 18 years having access to and consuming non-alcoholic, but alcohol-like, products. It also allows sufficient time for regulatory change to be considered and implemented regarding potential restrictions around the sale of non-alcoholic, but alcohol-like, products to minors.

3. **What circumstances or activities are to be covered by the exemption?**

7-Eleven sells a range of food and beverages in its convenience stores.

7-Eleven commenced sales of non-alcoholic, but alcohol-like, products in May 2023. These products include non-alcoholic beer, cider, wine, cocktails and mixers. These products look and taste similar to alcohol products, but have less than 0.5% alcohol content and are classified as "zero-alcohol" or "non-alcoholic" in accordance with Australian liquor laws.

7-Eleven is seeking to continue the restriction of the sale of these non-alcoholic, but alcohol-like, beverages to people under the age of 18 years. Under section 28 of the Act, 7-Eleven is unable to discriminate against another person based on age by refusing to provide that person with goods or services. 7-Eleven is concerned that a refusal to sell non-alcoholic beverages to a person under the age of 18, following the expiry of the Current Exemption, would therefore constitute a breach of the Act.

Accordingly, 7-Eleven seeks a further section 44 exemption from section 28 of the Act. This exemption is to allow 7-Eleven store operators and staff (whether franchised or corporately operated) to:

- Retain or place signage near non-alcoholic, but alcohol-like, beverages advising that the products are not for sale to anyone under the age of 18 years;
- Continue to request photo identification from customers seeking to purchase the non-alcoholic, but alcohol-like, beverages where they have any doubt as to the customer's age; and
- Continue to refuse the sale of non-alcoholic, but alcohol-like, beverages to customers under the age of 18 years.

4. **Who will be affected by the exemption?**

The people who will be affected by the exemption will continue to be confined to individuals under the age of 18 years who wish to purchase non-alcoholic, but alcohol-like, beverages from 7-Eleven stores.

7-Eleven is not aware of any particular organisation which will be affected by the exemption.

5. **Is the exemption necessary?**

As stated above, 7-Eleven is concerned that restricting the sale of non-alcoholic, but alcohol-like, beverages to individuals under 18 years old following the expiry of the Current Exemption would constitute a breach of section 28 of the Act.

Restricting the sale of non-alcoholic beverages based on age does not fall within any of the Act's general exemptions. It is also not an act of positive discrimination as it does not provide a benefit, meet a need or reduce a disadvantage suffered by children or adults.

Restricting the sale of non-alcoholic, but alcohol-like beverages is also not caught by liquor or other laws, meaning that it does not fall within the exemption available in section 39 of the Act (compliance with laws, orders etc.).¹ Liquor laws in most States and Territories define liquor as a beverage with an alcoholic content greater than 1.15%,² meaning even low-alcoholic drinks do not generally qualify as alcoholic beverages.

6. **Why should a further exemption be granted?**

7-Eleven submits that the Commission should grant a further exemption from the Act. This is because an exemption is consistent with the objectives and scheme of the Act. The operation of the Current Exemption has been successful, with no negative impacts on individuals having been raised since the Current Exemption was granted. 7-Eleven also does not believe it should or can comply with the Act. This is in circumstances where:

- There remains a lack of research on potential harms associated with persons under the age of 18 years consuming non-alcoholic, but alcohol-like, beverages;

¹ Explanatory Memorandum, Age Discrimination Bill 2003 (Cth), 53 [7].

² *Liquor Control Reform Act 1998* (Vic), section 3; *Liquor Act 2007* (NSW), section 3; *Liquor Act 1992* (Qld), section 4B; *Liquor Control Act 1988* (WA), section 3; *Liquor Act 2010* (ACT), section 11; *Liquor Licensing Act 1997* (SA), section 4; *Liquor Act 2019* (NT), section 6(1); *Liquor Licensing Act 1990* (Tas), section 3

- A further exemption would facilitate additional time for further research to be undertaken on any adverse impacts caused by the sale and consumption of non-alcoholic, but alcohol-like, beverages (given such beverages have only recently become popular and widely available consumer products);
- It remains reasonable in the sense that the disadvantages suffered by persons under the age of 18 years by being denied from purchasing non-alcoholic, but alcohol-like, products continue to be outweighed by avoiding the potential risks associated with having such persons predisposed to alcohol-like products;
- The consequences of the discrimination that the exemption allowed are and will continue to be minimal, in the sense that a person under the age of 18 years is deprived the right to purchase a good, being a particular category of beverage;
- Statistics around consumption of low and zero-alcohol products suggest consumption is expected to increase at an annual rate of 5% until 2025.³

7-Eleven notes that other beverage retailers are limiting the sale of non-alcoholic, but alcohol-like, beverages to minors. A recent decision of the Queensland Civil and Administrative Tribunal granted a similar exemption under the *Anti-Discrimination Act 1991* (Qld).⁴ The Commission accepted, on limited but credible public health material (including expert support and community consultation), that no and low alcohol products mimic alcoholic beverages and may normalise alcohol use among minors or act as a gateway to alcohol brands and consumption. The Commission also noted strong community support for the restriction of sales to minors, and further accepted that:

- There was a legitimate aim – protecting the health and wellbeing of children in vulnerable communities;⁵
- The measures were narrowly confined (age-based restriction for a specific product class, usage of signage, and conduction of ID checks) and time limited;⁶

³ IWSR, Press release "Growth of \$4bn+ Expected from No-Alcohol Category By 2028", 18 December 2024, available at <https://www.theiwsr.com/insight/growth-of-4bn-expected-from-no-alcohol-category-by-2028/>.

⁴ *Community Enterprise Queensland* [2025] QCAT 325 at [27].

⁵ *Ibid* at [31].

⁶ *Ibid* at [32].

- The discriminatory impact on minors was outweighed by the precautionary public health rationale in these communities. The limitation on rights did not exceed what was necessary to achieve the aim;⁷
- Alcohol-like products may promote their use in situations where the use of alcohol should not be present, such as while driving, which may serve to normalise the consumption of alcohol in such contexts; and
- Given the public health risks, community context, expert evidence, and the alignment with a precautionary approach also seen in similar decisions, granting a five-year, targeted exemption was deemed appropriate and in the community interest.

6.1 **Objects of the Act**

The objects of the Act include:

- To eliminate, as far as possible, discrimination against persons on the ground of age in the provision of goods and services, and
- To ensure, as far as practicable, that everyone has the same rights to equality before the law, regardless of age, as the rest of the community.⁸

The use of the words “as far as possible” and “as far as practicable” acknowledges there are practical restrictions on ensuring equality regardless of age. 7-Eleven argues that eliminating discrimination and ensuring equality in these circumstances should continue to give way to research-based considerations around potential harms caused by low and zero-alcohol products.

6.2 **Research around potential harms relating to consumption of non-alcoholic, but alcohol-like, products**

As there continues to be insufficient evidence surrounding the impacts of low and zero-alcohol beverage consumption,⁹ 7-Eleven is concerned it may be irresponsible to begin to allow the sale of these beverages to individuals under the age of 18 years, and seeks a further exemption from the Act until further research can be conducted into potential harms.

7-Eleven previously relied on an article by Mia Miller, Simon Pettigrew and Cassandra J. C. Wright. For a detailed outline of the contents of this article, please refer to the original application for a section 44 exemption, submitted by 7-

⁷ Ibid at [31].

⁸ *Age Discrimination Act 2004* section 3(a)-(b).

⁹ See for example, observations in Corfe S, Hyde R, Shepherd J. Alcohol-free and low-strength drinks: Understanding their role in reducing alcohol-related harms, *Social Market Foundation* (2020), 60; Kokole D., Llopis E. J., Anderson P., Non-alcoholic beer in the European Union and UK: Availability and apparent consumption (2021), 557.

Eleven on 25 August 2022, a copy of which is attached. In summary, the article explored the existing evidence on non-alcoholic beverages and their impact on drinking behaviours, as well as the need for further research into potential adverse impacts caused by zero-alcohol products.¹⁰ In particular, Milller stated that:

- Some zero-alcohol beverages contain small amounts of alcohol, the effects of which are not yet known with respect to children and their subsequent alcohol use."¹¹
- Marketing for non-alcoholic beverages is often associated with alcoholic brands, allowing for the indirect marketing of alcoholic beverages – a factor that has been shown to lead to increased chances of young people consuming alcohol.
- Non-alcoholic beverages are likely to affect norms around alcohol amongst children and it is unlikely that children would be able to differentiate between the two. Miller et al. noted that "it is therefore unclear what effect the increasing consumption of zero-alcohol beverages may have on children's descriptive and injunctive norms around alcohol" (being perceptions of how prevalent drinking behaviours are within a population, and whether drinking behaviours are deemed acceptable), and that "[b]oth descriptive and injunctive norms have been linked to alcohol consumption in adolescents and young adults, making it important to understand if and how zero-alcohol beverages are likely to influence these norms."¹²
- The consumption of non-alcoholic beverages are expected to follow a similar initiation model to that of e-cigarettes, which has been well-established by research. In particular, alternatives to adult products, such as e-cigarettes and non-alcoholic beverages, are appealing to young people as they are often cheaper, more accessible, more acceptable and more palatable.¹³ This notion is further supported by more recent research published this year, which identified that "a commonly anticipated issue with ZAPs [zero-alcohol products] was the potential for

¹⁰ Miller M, Pettigrew S, Wright CJC. Zero-alcohol beverages: Harm-minimisation tool or gateway drink?. *Drug Alcohol Rev* 2022;41:546–549.

¹¹ Ibid, 547; Miller M, Media release "Zero-alcohol beverages – harm-minimisation tool or gateway drink?", 10 August 2022, available at [327145 Zero-alcohol beverages – harm-minimisation tool or gateway drink.pdf \(menzies.edu.au\)](https://www.menzies.edu.au/327145/Zero-alcohol-beverages--harm-minimisation-tool-or-gateway-drink.pdf).

¹² Miller et al., 547-548.

¹³ Schneider S, Diehl K. Vaping as a catalyst for smoking? Model on the initiation of electronic cigarette use and the transition to tobacco smoking among adolescents. *Nicotine Tob Res* 2016;18: 647–53.

them to act as a gateway to alcohol use by allowing younger people to become accustomed to the taste of alcoholic products."¹⁴

Whilst Australia is experiencing a decline in rates of youth alcohol consumption, Miller et al. warns that the availability and marketing of zero-alcohol beverages "has the potential to stall or reverse these declines if a gateway effect occurs".¹⁵

While only further, limited research has been undertaken since the Current Exemption was granted, it is consistent with the concerns raised in the previous research referred to in the application for the Current Exemption and above:

- Recent research suggests that zero-alcohol drinks prompt adolescents to think of alcohol.¹⁶ The research, published this year and lead by Dr Ashlea Bartam, suggests that "teenagers classify zero-alcohol drinks as a type of alcoholic beverage, rather than as a soft drink" and that "[t]his is a major concern because there is a well-established association between frequency of alcohol advertising exposure and alcohol consumption among adolescents".¹⁷
- Parents largely view zero-alcohol products as adult beverages that may be less harmful than alcoholic beverages, but which could nonetheless normalise and promote alcohol use.¹⁸ Driven by the visual similarities between zero-alcohol products and their alcohol-containing counterparts, there is widespread concern about the potential for zero-alcohol beverages to normalise alcohol consumption.¹⁹ Parents are generally of the view that non-alcoholic beverages pose a 'gateway effect' threat whereby adolescent consumption of zero-alcohol beverages could accelerate the initiation of the consumption of alcohol.²⁰

¹⁴ Booth L, Keric D, and Bowden J et al., Zero alcohol products and adolescents: A tool for harm reduction or a trojan horse? *Appetite*; 205.

¹⁵ Miller et al., 548.

¹⁶ Bartram A, Mittinty M, and Ahad A et al., Alcohol advertising in disguise: Exposure to zero-alcohol products prompts adolescents to think of alcohol—Reaction time experimental study. *International Journal of Drug Policy*; 139.

¹⁷ News Desk "Teens find zero difference between zero-alcohol and alcohol drink adverts", 27 March 2025, available at <https://news.flinders.edu.au/blog/2025/03/27/teens-find-zero-difference-between-zero-alcohol-and-alcohol-drink-adverts/>.

¹⁸ NJ Harrison et al., 'They start on the Zero-Alcohol and They Wanna Try the Real Thing: Parents views on Zero-Alcohol Beverages and their use by Adolescents' (2024) 48(3) *Australian and New Zealand Journal of Public Health* 100119. See also Critchlow et al., 'Awareness of Alcohol Marketing, Ownership of Alcohol Branded Merchandise and the Association with Alcohol Consumption, Higher-Risk Drinking and Drinking Susceptibility in Adolescents and Young Adults: A cross-sectional survey in the UK' (2019) 9(3) *BMJ Open* e025297.

¹⁹ *Ibid.*

²⁰ *Ibid.*

Accordingly, 7-Eleven submits that a further exemption from the Act is required on the basis that not only is more research required, but the limited research available continues to indicate that potential harms may exist in relation to the sale and consumption of non-alcoholic beverages by underage persons.

6.3 **Benefits outweigh discriminatory effect**

7-Eleven submits that the discriminatory effect of the exemption, restricting persons under the age of 18 years from purchasing (and likely consuming) non-alcoholic beverages, remains reasonable when compared to the risks associated with underage persons developing a taste and desire to consume alcohol. Preventing people under 18 years of age from purchasing non-alcoholic, but alcohol-like, beverages is an appropriately targeted restriction.

The consequences arising from the discrimination remain minimal. The effect of an exemption is that persons under the age of 18 years are denied access to a particular and limited category of goods. These restrictions are similar to those placed on other types of goods and continue to operate – for example, alcoholic beverages, tobacco products and vapes – due to the harm these products may cause.

7-Eleven also notes that underage persons continue to have a variety of regular (non-alcoholic) drinks available to them which do not mimic alcoholic drinks in taste and appearance. These alternatives (e.g. soft drinks, juices etc.) do not give rise to the concerns noted in paragraph 6.2 above.

6.4 **Conclusion**

7-Eleven contends that it should be granted a further exemption from the Act to restrict the sale of non-alcoholic, but alcohol-like, beverages to people under the age of 18 years. This will avoid any potential harms caused by the consumption of low and zero-alcohol products by underage persons, including the potential to encourage early initiation of alcohol consumption.

A further exemption will allow time for research to be undertaken on the likely impacts of these products. 7-Eleven believes this research is required before it can assess whether low and zero-alcohol beverages should be made available to underage persons in its stores and that the exemption should remain until such research becomes available.

7-Eleven also submits that it remains reasonable for the further exemption to be granted, as the potential harms to underage persons arising from the consumption of non-alcoholic, but alcohol-like, beverages outweighs the discriminatory effect of preventing minors from purchasing such beverages.

6.5 Proposed terms and conditions of the exemption

7-Eleven proposes that it continue to be permitted, through its franchised and corporate stores, to refuse to sell non-alcoholic, but alcohol-like, beverages to anyone under the age of 18 years for three years, without exception.

7-Eleven is prepared to accept an exemption for a period of less than five years if deemed acceptable by the Commission to balance the Act's and 7-Eleven's objectives and allow for further research to be undertaken into the potential consequences associated with underage persons having access to and consuming non-alcoholic, but alcohol-like, products and/or any associated regulatory change.

6.6 Timing

Given the Current Exemption will end on 6 March 2026, 7-Eleven respectfully seeks that this application be dealt with as expeditiously as possible. If it is not possible for this application to be dealt with before the Current Exemption ends, 7-Eleven requests that the Current Exemption be extended on an interim basis pending a decision being made as to whether the further exemption sought in this application should be granted.

7. Are there factors that may affect the processing of the application?

7-Eleven has not sought an exemption under State or Territory discrimination laws.

7-Eleven has no particular request that the Commission keep this letter or further materials from being made publicly available.

Please contact Jane Harvey (03 9679 3054) if you have any queries.



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Application for an exemption under section 44 of the Age Discrimination Act 2004 (Cth)

We act for 7 Holdings Pty Ltd and its wholly owned subsidiaries.

1. WHO IS SEEKING THE EXEMPTION?

7 Holdings Pty Ltd and its wholly owned subsidiaries, 7-Eleven Stores Pty Ltd and Convenience Holdings Pty Ltd (together, **7-Eleven**), applies for a section 44 exemption from section 28 of the *Age Discrimination Act 2004* (Cth) (**the Act**).

7-Eleven has approximately 729 convenience stores around Australia (in all States and Territories, excluding Northern Territory, South Australia and Tasmania). Some stores are operated by 7-Eleven directly while others are franchise arrangements. Approximately 599 stores also sell fuel. 7-Eleven is one of Australia's largest private companies.

The exemption would apply to all 7-Eleven stores, whether operated directly or through its franchise network.

2. HOW LONG IS THE EXEMPTION SOUGHT FOR?

7-Eleven is seeking an exemption for three years.

7-Eleven seeks a three year exemption as opposed to the maximum five years allowed under the Act as a means to balance the Act's objectives to eliminate discrimination on the basis of age and 7-Eleven's objectives to protect persons under the age of 18 years from potential harms associated with purchasing and consuming non-alcoholic, but alcohol-like products in terms of taste, smell and packaging.

7-Eleven considers three years is sufficient to allow for further research to be undertaken into the potential consequences associated with persons under the age of 18 years having access to and consuming non-alcoholic, but alcohol-like, products. It also allows sufficient time for regulatory change to be considered and implemented regarding potential restrictions around the sale of non-alcoholic, but alcohol-like, products to minors.

3. WHAT CIRCUMSTANCES OR ACTIVITIES ARE TO BE COVERED BY THE EXEMPTION?

7-Eleven sells a range of food and beverages in its convenience stores.

7-Eleven plans to introduce a range of non-alcoholic, but alcohol-like, products into its drinks range from September 2022. These products include non-alcoholic beer, cider, wine, cocktails and mixers.¹ These products look and taste similar to alcohol products, but have less than 0.5% alcohol content and are classified as "zero-alcohol" or "non-alcoholic" in accordance with Australian liquor laws.

7-Eleven is seeking to restrict the sale of these non-alcoholic, but alcohol-like, beverages to people over the age of 18 years. Under section 28 of the Act, 7-Eleven is unable to discriminate against another person based on age by refusing to provide that person with goods or services. 7-Eleven is concerned that a refusal to sell non-alcoholic beverages to a person under the age of 18 would therefore constitute a breach of the Act.

Accordingly, 7-Eleven seeks a section 44 exemption from section 28 of the Act. This exemption is to allow 7-Eleven store operators and staff (whether franchised or corporately operated) to:

- Place signage near non-alcoholic, but alcohol-like, beverages advising that the products are not for sale to anyone under the age of 18 years;
- Request photo identification from customers seeking to purchase the non-alcoholic, but alcohol-like, beverages where they have any doubt as to the customer's age; and
- Refuse the sale of non-alcoholic, but alcohol-like, beverages to customers under the age of 18 years.

4. **WHO WILL BE AFFECTED BY THE EXEMPTION?**

The people who will be affected by the exemption are those individuals under the age of 18 years who wish to purchase non-alcoholic, but alcohol-like, beverages from 7-Eleven stores.

7-Eleven is not aware of any particular organisation which will be affected by the exemption.

5. **IS THE EXEMPTION NECESSARY?**

As stated above, 7-Eleven is concerned that restricting the sale of non-alcoholic, but alcohol-like, beverages to individuals over 18 years old would constitute a breach of section 28 of the Act.

Restricting the sale of non-alcoholic beverages based on age does not fall within any of the Act's general exemptions. It is also not an act of positive discrimination as it does not provide a benefit, meet a need or reduce a disadvantage suffered by children or adults.

Restricting the sale of non-alcoholic, but alcohol-like beverages is also not caught by liquor or other laws, meaning that it does not fall within the exemption available in section 39 of the Act (compliance with laws, orders etc.).² Liquor laws in most States and Territories define liquor as a beverage with an alcoholic content greater than 0.5%, or 1.15% for NSW, ACT and WA,³ meaning even low-alcoholic drinks do not generally qualify as alcoholic beverages.

¹ See, for example [Naked Life](#) and [Monday Distillery](#) non-alcoholic cocktails, [Heaps Normal](#), [Great Northern Zero](#) and [Pines Ultra](#) non-alcoholic beer. 7-Eleven intends to sell these products as part of its non-alcoholic range.

² Explanatory Memorandum, Age Discrimination Bill 2003 (Cth), 53 [7].

³ *Liquor Control Reform Act 1998* (Vic), section 3; *Liquor Act 2007* (NSW), section 3; *Liquor Act 1992* (Qld), section 4B; *Liquor Control Act 1988* (WA) section 3; *Liquor Act 2010* (ACT) section 11.

6. WHY SHOULD AN EXEMPTION BE GRANTED?

7-Eleven submits that the Commission should grant an exemption from the Act. This is because an exemption is consistent with the objectives and scheme of the Act, and 7-Eleven also does not believe it should or can comply with the Act. This is in circumstances where:

- There is a lack of research on potential harms associated with persons under the age of 18 years consuming non-alcoholic, but alcohol-like, beverages;
- An exemption would facilitate additional time for further research to be undertaken on any adverse impacts caused by the sale and consumption of non-alcoholic, but alcohol-like, beverages (given such beverages have only recently become popular and widely available consumer products);
- It is reasonable in the sense that the disadvantages suffered by persons under the age of 18 years by being denied from purchasing non-alcoholic, but alcohol-like, products are outweighed by avoiding the potential risks associated with having such persons predisposed to alcohol-like products;
- The consequences of the discrimination that the exemption would allow are minimal, in the sense that a person under the age of 18 years is deprived the right to purchase a good, being a particular category of beverage;
- Statistics around consumption of low and zero-alcohol products suggest consumption is expected to increase by 31 per cent by 2024.⁴

7-Eleven notes that other beverage retailers are limiting the sale of non-alcoholic, but alcohol-like, beverages to minors. It is not aware whether any specific exemption has been sought by these retailers or granted.

6.1 Objects of the Act

The objects of the Act include:

- To eliminate, as far as possible, discrimination against persons on the ground of age in the provision of goods and services, and
- To ensure, as far as practicable, that everyone has the same rights to equality before the law, regardless of age, as the rest of the community.⁵

The use of the words "as far as possible" and "as far as practicable" acknowledges there are practical restrictions on ensuring equality regardless of age. 7-Eleven argues that eliminating discrimination and ensuring equality in these circumstances should give way to research-based considerations around potential harms caused by low and zero-alcohol products.

⁴ IWSR, Press release "No- and Low-Alcohol Products Gain Share Within Total Beverage Alcohol", February 2021, available at [IWSR- No- and Low-Alcohol Gains Share \(theiwsr.com\)](https://www.theiwsr.com).

⁵ *Age Discrimination Act 2004* section 3(a)-(b).

6.2 **Research around potential harms relating to consumption of non-alcoholic, but alcohol-like, products**

As there is insufficient evidence surrounding the impacts of low and zero-alcohol beverage consumption,⁶ 7-Eleven is concerned it may be irresponsible to allow the sale of these beverages to individuals under the age of 18 years, and seeks an exemption from the Act until further research can be conducted into potential harms.

7-Eleven relies on a recent article by Mia Miller, Simon Pettigrew and Cassandra J. C. Wright which explores the existing evidence on non-alcoholic beverages and their impact on drinking behaviours, as well as the need for further research into potential adverse impacts caused by zero-alcohol products.⁷

Miller states that as zero-alcohol beverages are classified as soft drinks in accordance with Australian Food Standards, "[c]hildren and young people may be buying these products from their local store, some of which do contain small amounts of alcohol... importantly, researchers do not yet know what impact consuming zero-alcohol beverages in childhood will have on subsequent alcohol use."⁸

Of the limited evidence that is available on this subject, 7-Eleven understands there are causes for concern if non-alcoholic, but alcohol-like, beverages are to be widely consumed by individuals under the age of 18 years given it could encourage an early initiation to alcohol. In summary, Miller et al. make the following observations:

(a) *Marketing for non-alcoholic beverages often associated with alcoholic brands*

Non-alcohol beverages provide further marketing opportunities for alcohol brands, "as these products can be promoted in places and to audiences for which the marketing of traditional alcohol would be discouraged, either legally or normatively".

Miller et al. notes that where products are tied to existing alcohol brands, "the marketing of these products provides myriad new opportunities for alcohol companies to display their branding and packaging to bolster brand recognition and allegiance", a factor that has been shown to lead to increased chances of young people consuming alcohol.⁹

Importantly, Miller et al. provides by way of example, that "young adults who saw the logos of companies that sell both alcoholic and zero-alcohol beverages were found to associate the logos primarily with the alcoholic versions of the products, indicating that zero-alcohol beverages are working as advertising vehicles for parent companies and their broader product portfolio."¹⁰

⁶ See for example, observations in Corfe S, Hyde R, Shepherd J. Alcohol-free and low-strength drinks: Understanding their role in reducing alcohol-related harms, Social Market Foundation (2020), 60; Kokole D., Llopis E. J., Anderson P., Non-alcoholic beer in the European Union and UK: Availability and apparent consumption (2021), 557.

⁷ Miller M, Pettigrew S, Wright CJC. Zero-alcohol beverages: Harm-minimisation tool or gateway drink?. *Drug Alcohol Rev* 2022;41:546–549.

⁸ Ibid, 547; Miller M, Media release "'Zero-alcohol beverages – harm-minimisation tool or gateway drink?", 10 August 2022, available at [327145_Zero-alcohol_beverages_-_harm-minimisation_tool_or_gateway_drink.pdf](https://www.menzies.edu.au/327145_Zero-alcohol_beverages_-_harm-minimisation_tool_or_gateway_drink.pdf) ([menzies.edu.au](https://www.menzies.edu.au)).

⁹ Ibid.

¹⁰ Miller et al., 547; Kaewpramusol R, Senior K, Nanthamongkolchai S, Chenhall R. Brandadvertising and brand sharing of alcoholic and non-alcoholic products, and the effects on young Thai people's attitudes towards alcohol use: a qualitative focus group study. *Drug Alcohol Rev* 2019;38:284–93.

(b) *Non-alcoholic beverages likely to effect norms around alcohol*

A large body of research has demonstrated that children can recognise and identify alcoholic beverages by age three¹¹ and that as a result of similar packaging, labelling and smell as between alcoholic and zero-alcohol products, "it is highly unlikely that children would be able to differentiate between alcoholic and zero-alcohol beverages".

Miller et al. notes that "it is therefore unclear what effect the increasing consumption of zero-alcohol beverages may have on children's descriptive and injunctive norms around alcohol" (being perceptions of how prevalent drinking behaviours are within a population, and whether drinking behaviours are deemed acceptable), and that "[b]oth descriptive and injunctive norms have been linked to alcohol consumption in adolescents and young adults, making it important to understand if and how zero-alcohol beverages are likely to influence these norms."¹²

(c) *Consumption of non-alcoholic beverages may follow a similar initiation model to e-cigarettes*

If underage persons are allowed to purchase and consume non-alcoholic, but alcohol-like, products, there is the potential for a gateway effect as the products could predispose young people to earlier alcohol initiation. These concerns are consistent with established research around the negative impacts of e-cigarettes.

Miller et al. refers to the works of Schneider and Diehl,¹³ who explain the mechanism by which a gateway effect may occur, called the "catalyst model". It was found that initiation of e-cigarette use is more likely than for cigarettes because the flavours of e-cigarettes "are appealing to young people", they are often cheaper, more accessible and are likely to be more accepted by parents or authority figures, than their tobacco counterparts.

Similarities can be drawn with non-alcohol products which are also cheaper and more accessible than alcoholic beverages, so are also likely to "fit within the catalyst model, providing cause for concern about the use of zero-alcohol beverages by young people". Again, Miller et al. finds "[l]ongitudinal research is thus required in the alcohol field, similar to that in tobacco research, to determine whether young people are purchasing and using zero-alcohol beverages and the potential implications for alcohol initiation and use."¹⁴

Whilst Australia is experiencing a decline in rates of youth alcohol consumption, Miller et al. warns that the availability and marketing of zero-alcohol beverages "has the potential to stall or reverse these declines if a gateway effect occurs".¹⁵

Accordingly, 7-Eleven submits that an exemption from the Act is required on the basis that not only is more research required, but the limited research available already indicates that potential harms may exist in relation to the sale and consumption of non-alcoholic beverages by underage persons.

¹¹ Voogt C, Beusink M, Kleinjan M et al. Alcohol-related cognitions in children (aged 2-10) and how they are shaped by parental alcohol use: a systematic review. *Drug Alcohol Depend* 2017;177:277-90.

¹² Miller et al., 547-548.

¹³ Schneider S, Diehl K. Vaping as a catalyst for smoking? Model on the initiation of electronic cigarette use and the transition to tobacco smoking among adolescents. *Nicotine Tob Res* 2016;18: 647-53.

¹⁴ Miller et al., 548.

¹⁵ Miller et al., 548.

6.3 **Benefits outweigh discriminatory effect**

7-Eleven submits that the discriminatory effect of the exemption, restricting persons under the age of 18 years from purchasing (and likely consuming) non-alcoholic beverages, is reasonable when compared to the risks associated with underage persons developing a taste and desire to consume alcohol. Preventing people under 18 years of age from purchasing non-alcoholic, but alcohol-like, beverages is an appropriately targeted restriction.

The consequences arising from the discrimination too are minimal. The effect of an exemption is that persons under the age of 18 years are denied access to a particular and limited category of goods. These restrictions are already placed on other types of goods – for example, alcoholic beverages, tobacco products and vapes – due to the harm these products may cause.

This can be distinguished, for example, to the circumstances considered by the Commission in an application made by Uber for an exemption to refuse to provide the Uber App to individuals under the age of 18 years who sought to become delivery partners. The consequences for underage persons in those circumstances was more significant as the exemption would have had the effect of preventing persons under the age of 18 years from participating in paid work.¹⁶

7-Eleven also notes that underage persons have a variety of regular (non-alcoholic) drinks available to them which do not mimic alcoholic drinks in taste and appearance. These alternatives (e.g. soft drinks, juices etc.) do not give rise to the concerns noted in paragraph 6.2 above.

6.4 **Conclusion**

7-Eleven contends that it should be granted an exemption from the Act to restrict the sale of non-alcoholic, but alcohol-like, beverages to people over the age of 18 years. This will avoid any potential harms caused by the consumption of low and zero-alcohol products by underage persons, including the potential to encourage early initiation of alcohol consumption.

An exemption will also allow time for research to be undertaken on the likely impacts of these products. 7-Eleven believes this research is required before it can assess whether low and zero-alcohol beverages should be made available to underage persons in its stores.

7-Eleven also submits that it is reasonable for the exemption to be granted, as the potential harms to underage persons arising from the consumption of non-alcoholic, but alcohol-like, beverages outweighs the discriminatory effect of preventing minors from purchasing such beverages.

6.5 **Proposed terms and conditions of the exemption**

7-Eleven proposes that it be permitted, through its franchised and corporate stores, to refuse to sell non-alcoholic, but alcohol-like, beverages to anyone under the age of 18 years for three years, without exception.

7-Eleven is prepared to accept an exemption for a period of less than three years if deemed acceptable by the Commission to balance the Act's and 7-Eleven's objectives and allow for further research to be undertaken into the potential consequences associated with underage

¹⁶ Application by Portier Pacific Pty Ltd, Uber Portier B.V. and their affiliates, available at [1 \(humanrights.gov.au\)](https://www.humanrights.gov.au).

persons having access to and consuming non-alcoholic, but alcohol-like, products and/or any associated regulatory change.

7. **ARE THERE FACTORS THAT MAY AFFECT THE PROCESSING OF THE APPLICATION?**

7-Eleven has not sought an exemption under State or Territory discrimination laws.

7-Eleven has no particular request that the Commission keep this letter or further materials from being made publicly available.

Please contact Jane Harvey (03 9679 3054) if you have any queries.



ASHURST

AUSTRALIAN HUMAN RIGHTS COMMISSION

AGE DISCRIMINATION ACT 2004 (CTH), S 44(1)

NOTICE OF DECISION ON APPLICATION FOR TEMPORARY EXEMPTION: 7 HOLDINGS PTY LTD, 7-ELEVEN STORES PTY LTD AND CONVENIENCE HOLDINGS PTY LTD

By this instrument, under section 44(1) of the *Age Discrimination Act 2004* (Cth) (Age Discrimination Act), the Australian Human Rights Commission (Commission) grants an exemption to 7 Holdings Pty Ltd and its wholly owned subsidiaries, 7-Eleven Stores Pty Ltd and Convenience Holdings Pty Ltd (together, 7-Eleven), from the operation of section 28 of the Age Discrimination Act.

This exemption is granted for a period of three years from the date of this instrument and is subject to the conditions outlined below.

1 THE APPLICATION AND BACKGROUND

- 1.1 7-Eleven is a retail company with approximately 729 convenience stores around Australia with stores in all states and territories. Some stores are operated by 7-Eleven directly while others are operated under franchise arrangements.
- 1.2 7-Eleven plans to introduce a range of non-alcoholic, but alcoholic-like, products into its drinks range. These products include non-alcoholic beer, cider, wine, cocktails and mixers.
- 1.3 On 25 August 2022, 7-Eleven applied for an exemption under the Age Discrimination Act for three years to allow 7-Eleven store operators and staff (whether franchised or directly operated) to:
 - a) place signage near non-alcoholic, but alcohol-like, beverages advising that the products are not for sale to anyone under the age of 18 years
 - b) request photo identification from customers seeking to purchase the non-alcoholic, but alcohol-like, beverages where they have any doubt as to the customer's age
 - c) refuse the sale of non-alcoholic, but alcohol-like, beverages to customers under the age of 18 years

(the Application).

1.4 7-Eleven submits that the exemption is necessary because it is concerned that restricting the sale of non-alcoholic, but alcohol-like, beverages to individuals over 18 years old would constitute a breach of section 28 of the Age Discrimination Act.

2 DECISION OF THE COMMISSION

2.1 The Commission has decided to grant to an exemption to 7-Eleven from the operation of section 28 of the Age Discrimination Act, subject to the terms and conditions outlined below.

3 CONSIDERATION AND REASONS

3.1 In reaching its decision, the Commission considered the following:

- a) 7-Eleven's Application, including the material and articles referenced in its Application
- b) submissions from other interested parties.

3.2 7-Eleven's Application and the submissions received are available on the Commission's website at <https://humanrights.gov.au/our-work/legal/exemptions/exemption-applications-under-age-discrimination-act-2004-cth>.

3.3 In making its decision, the Commission had regard to the following:

- a) the terms and objects of the Age Discrimination Act
- b) the Commission Guidelines: *Temporary Exemptions under the Age Discrimination Act 2004 (Cth)*.

3.4 The history of the application, the Commission's consideration of the above, and the reasons for the Commission's decision are set out below.

4 MEANING OF IMPORTANT TERMS

4.1 Unless the contrary intention appears, any term used in this decision and in the Age Discrimination Act has the same meaning in this decision as it has in the Age Discrimination Act.

5 REVIEW OF FINAL DECISION

5.1 Pursuant to s 45 of the Age Discrimination Act, and subject to the *Administrative Appeals Tribunal Act 1975 (Cth)*, an application may be made to the Administrative Appeals Tribunal for a review of this decision.

6 THE COMMISSION'S PROCESSES

6.1 On 30 September 2022, the Commission commenced a six-week public consultation period (which was extended by a further week upon request by interested parties). The Commission did this by:

- publishing the application on its website and calling for public submissions
- writing to State and Territory anti-discrimination bodies, inviting them to make submissions
- writing to Federal, State and Territory health ministers, inviting them to make submissions, and
- writing to the Foundation for Alcohol Research & Education (FARE) and the Public Health Advocacy Institute, inviting them to make submissions.

6.2 The Commission received four submissions during its public consultation (as outlined at paragraph 9.8). Copies of those submissions were made available on the Commission's website and 7-Eleven was given the opportunity to reply to those submissions.

6.3 The Commission has considered all of the materials referred to above in reaching its decision in relation to the application.

7 PROCEDURAL FAIRNESS CONSIDERATIONS

7.1 The Commission considers that, consistent with fundamental principles of procedural fairness, the process set out above has provided both 7-Eleven and the public with an adequate opportunity to comment on this Application.

8 LEGISLATIVE REGIME AND THE COMMISSION'S POWER TO GRANT EXEMPTIONS

8.1 The Age Discrimination Act makes it unlawful to discriminate against someone on the ground of age in respect of a range of areas. Most relevantly for the present application, the Age Discrimination Act makes discrimination unlawful in relation to the provision of goods and services (s 28).

8.2 Section 28 of the Age Discrimination Act provides that:

It is unlawful for a person who, whether for payment or not, provides goods or services, or makes facilities available, to discriminate against another person on the ground of the other person's age:

(a) by refusing to provide the other person with those goods or services or to make those facilities available to the other person; or

(b) in the terms or conditions on which the first-mentioned person provides the other person with those goods or services or makes those facilities available to the other person; or

(c) in the manner in which the first-mentioned person provides the other person with those goods or services or makes those facilities available to the other person.

- 8.3 Parliament has conferred broad powers on the Commission to grant exemptions under the Age Discrimination Act (s 44) from the operation of a provision of Division 2 or 3 of the Age Discrimination Act. Section 28 of the Age Discrimination Act is located in Division 3, therefore, the Commission may grant an exemption from the operation of this section.
- 8.4 The effect of an exemption under the Age Discrimination Act is that any discrimination covered by the exemption is not unlawful under the Age Discrimination Act while the exemption remains in force.
- 8.5 Exemptions granted by the Commission may be granted subject to terms and conditions. Failure to comply with such a term or condition does not, of itself, amount to unlawful conduct. However, where the beneficiary of an exemption fails to comply with a condition attached to the exemption, they will be deprived of the benefit of the exemption. They will then be subject to the requirements of the Age Discrimination Act in the usual way.
- 8.6 In practical terms, the granting of a temporary exemption means that the activities or circumstances covered by it cannot be the subject of a successful complaint under the Age Discrimination Act. Situations that might otherwise be unlawful under the Age Discrimination Act cannot be effectively contested through the usual discrimination complaints process, with its consequent legal remedies. A failure to comply with a condition attached to an exemption means that the exemption will no longer apply and complaints of unlawful discrimination under the Age Discrimination Act as a result of the activities or circumstances which had been covered by the exemption may be brought against the beneficiary of that exemption.
- 8.7 Pursuant to s 44(1) of the Age Discrimination Act, the Commission's exemption power is exercisable 'on application' and any exemption is to be granted 'by instrument'. An exemption is to be granted for a period, specified in the instrument, not exceeding 5 years (Age Discrimination Act, s 44(3)(c)).
- 8.8 Notwithstanding the few express limitations referred to above, the Commission's power to grant exemptions from compliance with the Age Discrimination Act is otherwise unconfined. Consistent with established principles of administrative law, the Commission's statutory discretion must be exercised in conformity with the subject matter, scope and purpose of the legislation under which it arises: *R v Australian Broadcasting Tribunal; Ex parte 2*

HD Pty Ltd (1979) 144 CLR 45 at 49; *FAI Insurances Ltd v Winneke* (1982) 151 CLR 342 at 368; *Minister for Aboriginal Affairs v Peko-Wallsend Ltd* (1986) 162 CLR 24 at 40; *O'Sullivan v Farrer* (1989) 168 CLR 210 at 216; *Oshlack v Richmond River Council* (1998) 193 CLR 72 at [22], [31].

8.9 The objects of the Age Discrimination Act are stated in s 3 to be:

- (a) to eliminate, as far as possible, discrimination against persons on the ground of age in the areas of work, education, access to premises, the provision of goods, services and facilities, accommodation, the disposal of land, the administration of Commonwealth laws and programs and requests for information; and
- (b) to ensure, as far as practicable, that everyone has the same rights to equality before the law, regardless of age, as the rest of the community; and
- (c) to allow appropriate benefits and other assistance to be given to people of a certain age, particularly younger and older persons, in recognition of their particular circumstances; and
- (d) to promote recognition and acceptance within the community of the principle that people of all ages have the same fundamental rights; and
- (e) to respond to demographic change by:
 - (i) removing barriers to older people participating in society, particularly in the workforce; and
 - (ii) changing negative stereotypes about older people;bearing in mind the international commitment to eliminate age discrimination reflected in the Political Declaration adopted in Madrid, Spain on 12 April 2002 by the Second World Assembly on Ageing.

8.10 By conferring an exemption power on the Commission, Parliament has clearly contemplated that some discriminatory conduct might be justified and that, in certain circumstances, derogation from the terms of the Age Discrimination Act is permissible.

8.11 However, this exemption power must be interpreted in light of the objects of the Age Discrimination Act and the legislative scheme as a whole. The Age Discrimination Act defines discrimination and makes discrimination on the grounds of age unlawful. The grant of an exemption pursuant to s 44 of the Age Discrimination Act has the effect of taking relevant conduct out of the Age Discrimination Act's prohibitions and denying redress to a person who is affected by that conduct for the period covered by the exemption. While the exemption power in the Age Discrimination Act recognises that there might be circumstances where a derogation from its prohibitions is appropriate, the

effect of an exemption is to qualify the norms of conduct that the Age Discrimination Act seek to establish.

8.12 Consequently, the Commission considers that exemptions should not be granted lightly. In exercising its statutory discretion, the Commission must have regard to the circumstances of each individual case and balance the relevant factors. Given the significant legal consequences for potential complainants, the Commission must be satisfied that a temporary exemption is appropriate and reasonable, and persuasive evidence is needed to justify the exemption.

8.13 The Commission issued guidelines in 2010 (see [3.3(b)]) concerning the way in which it proposes to exercise its power under the Age Discrimination Act. These provide that the Commission will consider:

- whether an exemption is necessary
- the objects of the Age Discrimination Act
- an applicant's reasons for seeking an exemption
- submissions by interested parties
- all relevant provisions of the Age Discrimination Act.

9 DECISION

9.1 Pursuant to 7-Eleven's application, the Commission has decided to grant to an exemption to 7-Eleven from the operation of section 28 of the Age Discrimination Act, subject to the terms and conditions outlined below.

Terms and conditions of the exemption

9.2 7-Eleven, its store operators, and staff (whether the store is franchised or directly operated by 7-Eleven) may:

- a) refuse the sale of non-alcoholic, but alcohol-like, beverages to customers under the age of 18 years
- b) place signage near non-alcoholic, but alcohol-like, beverages advising that these products are not for sale to anyone under the age of 18 years
- c) request photo identification from customers seeking to purchase the non-alcoholic, but alcohol-like, beverages where they have any doubt as to the customer's age.

9.3 The exemption is granted for three years from the date of this instrument.

7-Eleven's reasons for seeking a temporary exemption

9.4 7-Eleven submits that the exemption is necessary because it is concerned that restricting the sale of non-alcoholic, but alcohol-like, beverages to individuals over 18 years old would constitute a breach of section 28 of the Age Discrimination Act.

9.5 7-Eleven submits that an exemption should be granted in circumstances where:

- There is a lack of research on potential harms associated with persons under the age of 18 years consuming non-alcoholic, but alcohol-like, beverages.
- An exemption would facilitate additional time for further research to be undertaken on any adverse impacts caused by the sale and consumption of non-alcoholic, but alcohol-like, beverages (given such beverages have only recently become popular and widely available consumer products).
- It is reasonable in the sense that the disadvantages suffered by persons under the age of 18 years by being denied from purchasing non-alcoholic, but alcohol-like, products are outweighed by avoiding the potential risks associated with having such persons predisposed to alcohol-like products.
- The consequences of the discrimination that the exemption would allow are minimal, in the sense that a person under the age of 18 years is deprived the right to purchase a good, being a particular category of beverage.
- Statistics around consumption of low and zero-alcohol products suggest consumption is expected to increase by 31 per cent by 2024.

9.6 As there is insufficient evidence surrounding the impacts of non-alcoholic, but alcohol-like, beverages, 7-Eleven is concerned it may be irresponsible to allow the sale of these beverages to individuals under the age of 18 years until further research can be conducted into potential harms.

9.7 Relying primarily on a 2022 article (Miller M, Pettigrew S, Wright CJC, 'Zero-alcohol beverages: Harm-minimisation tool or gateway drink?' (2022) 41(3) *Drug Alcohol Review* 546–549), 7-Eleven further submits that an exemption from the Age Discrimination Act is required on the basis that not only is more research required, but the limited research currently available indicates that potential harms may exist in relation to the sale and consumption of non-alcoholic beverages by people under the age of 18. These potential harms include:

- a) Marketing for non-alcoholic beverages is often associated with alcoholic brands and may provide further marketing opportunities for alcoholic brands.
- b) Non-alcoholic beverages are likely to effect norms around alcohol, including perceptions of the prevalence and acceptability of drinking behaviours.
- c) The consumption of non-alcoholic beverages has the potential for a 'gateway effect' as the products could predispose young people to earlier alcohol initiation.

Submissions of interested parties

9.8 The Commission received submissions concerning the Application from the following individual and organisations:

- The Hon Natasha Fyles, Northern Territory Chief Minister, Minister for Alcohol Policy, Minister for Defence, Minister for Health, Minister for Major Projects
- The Hon Chris Picton MP, South Australian Minister for Health and Wellbeing
- Foundation for Alcohol Research & Education
- Cancer Council.

9.9 All submissions received supported granting the temporary exemption to 7-Eleven. The concerns raised in these submissions reflected those raised in 7-Eleven's application, including:

- a) the evidence regarding the potential harms of non-alcoholic, but alcoholic-like products, is inconclusive and further research is needed
- b) the potential 'gateway' effect of these products to alcohol consumption by children and young people
- c) the exposure of children and young people to the marketing of alcoholic brands through these products
- d) the need for a precautionary approach to be taken given the potential harms until further research is undertaken.

9.10 FARE and Cancer Council also raised broader concerns regarding the lack of specific regulation in relation to the sale of non-alcoholic, but alcohol-like, beverages. Given their zero or low alcohol levels, these products are not covered by state and territory liquor licensing laws. These products can be and are currently sold without restriction in many supermarkets, convenience

stores and other retailers. The Commission notes that FARE and the Cancer Council object more broadly to the sale of non-alcoholic, but alcohol-like, beverages to any person in unlicensed retail premises. However, as recognised by these parties, these objections are beyond the scope of the Commission's powers in relation to exemptions under the Age Discrimination Act.

- 9.11 As indicated above, the Commission wrote to the Federal, State and Territory health ministers to invite submissions in response to 7-Eleven's application. The Commission only received responses from the health ministers of South Australia and the Northern Territory. The Commission intends to write again to all relevant health ministers to inform them of its decision to grant this exemption to 7-Eleven and raising its concerns regarding the sale of non-alcoholic, but alcohol-like, beverages to people under 18, highlighting this as an area where further research into the potential impact of these products is required, and where appropriate regulatory changes may also need to be considered in light of such research.

Consideration and reasons for the decision

- 9.12 The Commission accepts that there is limited evidence regarding the risks of potential harms of non-alcoholic, but alcohol-like, beverages to people under the age of 18 years, and that further research into this issue is needed. The Commission further accepts that the limited evidence currently available into this issue indicates that such products may pose potential harms for people under the age of 18 years, particularly the potential 'gateway effect' to alcohol consumption, impacting their views towards alcohol, and the marketing of alcohol brands towards this group. The Commission shares these concerns regarding the sale of these products to people under 18.
- 9.13 As noted above, when deciding on exemption applications under the Age Discrimination Act, the Commission has to have regard to the objects of this legislation, which include seeking to eliminate, as far possible, discrimination against person on the ground of age in a range of areas, including provision of goods, services, or facilities.
- 9.14 The Commission accepts that refusing to sell these goods to people under 18 may constitute a breach of section 28 of the Age Discrimination Act, and that the exemption sought by 7-Eleven is therefore necessary.
- 9.15 The Commission similarly recognises that 7-Eleven's proposed policy would be inconsistent with the above object of the Age Discrimination Act. However, this does not prevent the Commission from granting the exemption. The nature and extent of the discriminatory effect must be weighed against the reasons advanced in favour of the exemption.

- 9.16 The Commission considers that the discriminatory impact of the exemption is limited. People under 18 are being denied the sale of a particular class of beverages by 7-Eleven which may cause potential harm to them. As 7-Eleven notes, there are regulatory restrictions placed on the sale of other products (e.g. alcohol, tobacco products, e-cigarettes) to people under 18 due to the harms they pose. Furthermore, people under 18 are able to purchase a range of other beverages (e.g. soft drinks, juices, etc.) from 7-Eleven. The Commission also notes that whilst these products will not be sold to people under 18 by 7-Eleven, they nonetheless can still purchase them at other retailers.
- 9.17 The Commission also notes that, in making this application, 7-Eleven is acting responsibly and has carefully considered the potential harms of these products to its customers and the community, as well as the discriminatory impact of restricting the sale of these products. This is commendable.
- 9.18 Ultimately, the Commission considers that any discriminatory impact on people under the age of 18 years is outweighed by the need to take a precautionary approach with these products in light of their potential harms.
- 9.19 The exemption has been sought for a period of three years. The Commission considers that this is an appropriate period to allow time for further research to be undertaken into the potential consequences of the sale of these products to people under the age of 18 years and any possible regulatory changes.
- 9.20 The Commission notes that any further exemptions would need to be justified by evidence of the need for such exemptions.

Conclusion

- 9.21 The Commission concludes that 7-Eleven's policy in relation to the sale of non-alcoholic, but alcohol-like, beverages is an appropriate and reasonable measure, and the requested exemption should be granted for a period of three years.



Emeritus Professor Rosalind Croucher AM

President

on behalf of the Commission.

7 March 2023