



## **SUBMISSION**

Prepared by the  
**New Zealand Retailers Association**

For the  
**Law Commission**

In respect of  
**Alcohol in Our Lives**  
**An Issues Paper on the Reform of New Zealand's Liquor  
Laws**

October 2009

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## **Introduction**

These submissions are presented by the New Zealand Retailers Association.

The Association is the largest trade association involved in the retail industry in New Zealand. We represent an industry that has annual sales of \$66billion and which employs 325,000 people (approx 20% of the New Zealand workforce) in more than 49,000 outlets throughout New Zealand.

Our national membership includes general merchandise chains, specialised chains, traditional department stores, grocery stores, supermarkets and thousands of owner operators spread throughout the country. The membership also includes a number of specialised trade groups representing manufacturers, distributors and retailers in the plumbing materials, metal fastener, pet, equestrian, jewellery, bicycle and sporting goods sectors.

These particular submissions have been prepared to reflect the views of our membership for whom liquor may be a significant or a smaller part of their product category offering, and hold off-licences – including Liquor, Speciality Food and Convenience/Grocery retailers, Supermarkets, and Department stores, or on-licences – including Cafes and Restaurants.

## **Background**

The Association welcomes the Commission's current inquiry into our liquor laws in that it is:

- a first principles review;
- the first comprehensive review of our liquor laws for 20 years;
- being undertaken independent of the political process;
- being undertaken in a transparent manner over a reasonable tract of time; and
- a review where submissions can be tested amongst various interested parties through ongoing consultation.

We have attended several inter-industry meetings over the past year where aspects of the inquiry have been discussed and debated. We have also met with the Commission on a number of occasions and commissioned detailed market research on aspects impinging on the retail sector.

The Commission will also be aware that the Association has previously submitted on the Sale and Supply of Liquor and Liquor Enforcement Bill. We note that the report back from the select committee has been deferred and that the Minister of Justice is intent to deal with all Liquor issues in a single, comprehensive and complete approach in 2010. This decision is in line with the Association's recommendations to the select committee and other parties that we approached, and accordingly we welcome this decision.

Briefly, the Association's submissions on the Sale and Supply of Liquor and Liquor Enforcement Bill highlighted our concerns with a number of proposals – specifically pertaining to:

- Off-licences
  - o criteria for off-licences  
*(proposals for licences not to be granted to premises if they are situated wholly or partially within a shop and that shop is not of a kind described in section 36(1)(d))*
  - o types of premises in respect of which off-licences may be granted  
*(proposal for minimum floor area of 150m<sup>2</sup>)*
  - o conditions of off-licences  
*(proposal to prohibit the grant of a full off-licence if the applicant is already the holder of an off-licence in respect of an "adjacent" supermarket or grocery store)*
- Local Alcohol Plans
  - o Proposals for Veto powers to sit with Territorial Authorities
  - o Proposed content of local alcohol plans to include
    - Density of premise
    - Minimum distances
    - Social impacts

We strongly believe that measures and interventions need to target at risk group behaviours.

## **Submission Overview**

We have approached our submission on the basis of traversing the specific questions outlined in the issues paper published by the Commission in August 2009. We are concerned that the issues and proposals provide very broad brush approaches impacting all New Zealanders, rather than attempting to identify solutions that would specifically target and change risky behaviour. Accordingly, our responses consider the effect that any proposals would have in addressing those at risk groups.

Whilst we have more interest in some sections of the paper as distinct from others we feel an approach that gives a retail perspective on most of the questions posed and options put would be of more value to the Commission than a more restricted submission which concentrates only a limited range of particular issues.

We have also provided two appendices:

**Appendix I** - Chapter 13 of the Commission's Discussion Document provides a summary range of policy options developed in the course of their preliminary consultation with individuals, organisations and government agencies. To simplify the New Zealand Retailers Association's views on these policy options, we have highlighted the options that we consider to be either "preferable" on the list of proposals, and/or options that we would be "supportive of being further explored".

**Appendix II** – "The Alcohol Market in New Zealand" which provides a statistical response to challenge a number of preconceived myths.

## **Specific Submissions**

### **1. The Harm**

We acknowledge as a matter of principle that liquor abuse can cause both society and individuals significant harm and along with other responsible industry groups we openly commit ourselves to working with the Commission, the Government and other interested parties to minimise the misuse of alcohol in our society.

However, we point out at the onset our belief that individual personal responsibility must play a large part in the minimisation of the misuse of alcohol in New Zealand, given our perception that Government legislative intervention will not in itself solve the apparent harm from alcohol consumption in New Zealand.

We are also of the viewpoint that the current review should principally be an evidence based inquiry and that recommendations that may flow to Government from the Commission are based upon factual evidence. In doing so, we expect that we would see a multi-faceted approach to dealing with harm.

### **2. Objects of the Law**

We believe that the current review presents a unique opportunity to review whether or not the objectives of the current Sale of Liquor Act are being achieved and, if not, whether change is best achieved by a revision to those parts of the current law that are not working effectively or whether in fact new legislation is required.

On balance, and given the societal changes evident in the past two decades, we believe that there is a prima facie case for a new Bill to be drafted and we find ourselves generally in agreement with the objectives for such a Bill (along the lines of "Sale and Consumption of Liquor" Bill) listed in para 12.8 of the discussion paper.

### 3. Supply Controls

#### 3.1 Licensing

##### 3.1.1 Introduction

We are supportive of the current system of supply controls that are operative in New Zealand.

Despite perceptions to the contrary, evidence does not support concerns that the number of licences has exploded in recent years and is totally out of control.

We are aware, for instance, that the number of licences since 1990 has risen from 6295 to 14225, but peaked in 2004 at 15242.

**Table 1.**

<b>Year</b>	<b>No of Licensed Premises</b>	<b>Volume of Pure Alcohol/Capita (litres)</b>
1990	6295	10.12
1991	7200	9.65
1992	N/A	9.50
1993	N/A	9.04
1994	N/A	9.26
1995	11280	9.04
1996	11698	8.76
1997	11973	8.64
1998	11461	8.62
1999	11787	8.81
2000	12596	8.84
2001	13408	8.77
2002	14131	9.14
2003	14557	8.92
2004	15242	9.16
2005	14202	9.32
2006	14594	9.35
2007	14596	9.20
2008	15066	9.50
2009	14225	N/A

However, whilst the number has grown considerably since 1990 when changes in the law permitted the grocery trade to be involved in the sale of wine and the subsequent spread of cafes, restaurants and nightclubs throughout the country, there has been a very stable picture in the number of total licences since 2002.

The effect of premises on the volume of pure alcohol/capita (in litres) purchased is not at all parallel to the growth of licences. We saw a peak at 10.12 litres in 1990, a decline to 8.62 in 1998, and a slow increase since that time to 9.50 litres in 2008 – a marginal 10% increase since 1998 compared to a 24% increase in the number of licenced premises over the same period.

(Sources: Distilled Spirits Association/Ministry of Justice Liquor Licensing Authority, and Statistics NZ)

### 3.1.2 Types of Licences

Given the above scenario, we are supportive of the current system of four licences that are able to be issued under the current Sale of Liquor Act.

However, we acknowledge increasing public concern about the availability of alcohol through smaller off-licences and the claim that these liquor stores have virtually “sprouted up” overnight.

We would point out in response that the evidence does not support this claim, in that the number of premises holding off licences has remained fairly constant at around 30% of the national total of licences issued since 1991.

The fact is that the number of premises holding off-licences has remained around the 4000 mark since the year 2000, peaking at 4568 in 2005, and reducing to 4206 in 2009.

**Table 2.**

<b>Year</b>	<b>No of Off-License</b>	<b>% Total Licences</b>
2002	4364	31
2003	4364	30
2004	4568	30
2005	4280	30
2006	4387	30
2007	4383	30
2008	4508	30
2009	4206	30

(Source: Distilled Spirits Association/Ministry of Justice Liquor Licensing Authority)

Perceptions have also swayed towards a concern that certain geographical areas (eg. South Auckland) have experienced inappropriate increases in the number of licences, and specifically, off-

licences, and that this density is a major contributing factor to social harm.

We provide a comparative selection of cities and compare these to the National average to demonstrate the number of liquor licences per 1000 adults has not grown disproportionately. But, further we highlight in the case of Manukau – where public perception would be otherwise – the number of off-licences per 1000 population is considerably less than other cities, and significantly less than the national average.

**Table 3.**

**Liquor Licenses/1000 Adults (all persons 15+) (2008)**

Year	Auckland	Manukau	Wellington	Christchurch	National
2005	5.00	1.87	5.06	3.97	4.51
2006	4.96	1.81	4.86	4.04	4.32
2007	5.24	1.87	4.78	4.50	4.43
2008	5.31	2.03	4.96	4.29	4.37

**Table 4.**

City	Off-License per 1000 Adults (all persons 15+) (2008)
Auckland	1.34
Manukau	0.74
Wellington	1.11
Christchurch	1.25
National	1.31

(Source: Distilled Spirits Association/Ministry of Justice Liquor Licensing Authority)

Notwithstanding that, we acknowledge that there may be within individual communities clustering and density issues, but we believe this has the ability to be addressed through greater powers afforded to the LLA to take such matters into account.

We therefore continue to argue that the licensing system has been working well, **particularly** where and when coupled with strong enforcement programmes.

### 3.1.3 Licensing Criteria

We believe the current system could be strengthened, and we acknowledge that this review provides an opportunity to reconsider the grounds on which the LLA can refuse licences and that consideration also be given to widening the powers upon which a licence can be

cancelled by the LLA. We are supportive of the LLA having greater powers.

We note that the Commission believes that the LLA should be able to refuse a licence on wider grounds than at present, for example, on one or more of the following grounds;

- a) the overall social impact of the licence is likely to be detrimental to the wellbeing of the broader community;
- b) granting the licence would be inconsistent with the object of the Act;
- c) the amenity, quiet or good order of the locality would be lessened by the granting of the licence;
- d) the licence would be inconsistent with the relevant local alcohol policy.

We believe that the community should be able to express their opinions on local alcohol policy.

However, we do not support any suggestion whereby a local authority should have veto powers in respect of the granting and renewal of licences (as is suggested under the current Government's Sale and Supply of Liquor and Liquor Enforcement Bill). Any suggestions for major changes to the current practices could create the potential for a proliferation of different community based rules and regulations. It would also ultimately create increased costs of compliance for those retailers who operate across most of the 72 territorial authorities spread throughout New Zealand.

#### 3.1.4 Types of Off Licences that may be Granted

We note the Commission's view that the current statutory provisions concerning the types of premises in respect of which off licences may be granted are difficult to understand (eg dairies vs grocery store etc). Given that the application of the law is variable, their viewpoint is that a proper risk analysis required by licensing decision makers on a case by case basis using a proper assessment of the risk the particular premises in the particular location poses, could be a better approach.

Further, we also note that the Commission considers that the need for tight prescription of such outlets would also be lessened if the licensing bodies had the discretion to refuse licences (as noted in 3.1.3 (a) to (d)) on more grounds than at present.

#### 3.1.5 Conditions of Licences

We note that the Commission considers that it would be reasonable to allow the LLA to impose any reasonable conditions on a particular

licence that it considers appropriate for the purposes of reducing liquor related harm. The Commission proposes three specific suggestions in the review document - promotional activities, discounted promotions and ensuring the free availability of tap water.

Our view is that while conditions in themselves may well be an appropriate regulatory option, two of these three suggestions made by the Commission are inappropriate as they are purely commercial matters given that promotional or discounted programmes are normally implemented on a national or regional rather than a local basis by the larger retail operators which sell alcohol as part of their overall product mix. These arrangements are negotiated on a national basis with suppliers.

The promotional activities aspect will be adequately and appropriately dealt with by a self-regulated Industry Code.

### 3.1.6 The Regulator

We support the Commission's proposal that the LLA should be retained as the specialist regulator and support it being given a range of additional powers which will enable it to be more proactive in enforcing the law and furthering the object of the Act.

However, as stated above we reject that such powers should be extended into making rules on aspects of the sale of alcohol policy such as promotions.

It nevertheless seems entirely reasonable that the LLA should adopt higher enforcement powers and, in particular:

- award costs;
- impose fines for breaches of any of the provisions of the Act;
- enhance the flow of data and information;
- analyse the use of licences; and
- impose quality controls on DLA output and compliance.

### 3.1.7 District Licensing Authorities

We are pleased to see that the Commission proposes that the powers and functions of the DLA's need to be restructured and improved and that the law should require higher levels of performance and reporting.

We are particularly heartened by the view that although the Commission acknowledges that every District Council should have a local alcohol policy, the Commission goes on to say that that every

decision of the DLA's should be independent of the Council itself and that the ' final word ' should be with the LLA.

We would be very concerned if veto powers were extended to Local Bodies and have recommended that this suggestion contained in Clause 37 of the current Government Sale and Supply of Liquor and Liquor Enforcement Bill be removed.

The proposals in that bill will require territorial authorities (TAs) using their consultative procedures under the Local Government Act to adopt plans relating to the sale of alcohol within their jurisdictions and recommend it not proceed.

We foresee that those proposals would create the potential for a proliferation of different community based rules and regulations, and increased costs of compliance for those retailers who operate across most of the 72 territorial authorities spread throughout New Zealand.

### **3.2 Hours**

We note the Commission's comments that the trend towards extended, including 24 hour, trading of liquor in New Zealand appears to be leading to increasing disorder and problems for the Police and the viewpoint that some restrictions should be introduced in respect of trading hours for off licence holders as well as on licences.

We also note that the Commission's viewpoint is based on the premise that liquor is typically much cheaper at off licences than on licences and that consequently people purchase liquor at off licences, drink at home or on the street and then visit licensed premises where there is entertainment but liquor is more expensive.

Whilst we are not opposed in principle to suggestions of some restrictions on hours of trading, we feel it is incumbent for the Commission to produce evidence to justify such a conclusion if such a recommendation is to feature in its final report. Research commissioned by the Association (NZIER Report to the NZRA – Alcohol Availability and social Costs in New Zealand – 6 July 2009) suggest that “much of the existing evidence on the impact of altering licensing hours is now dated and has mixed results and policy implications”.

We will comment in more detail on purchasing trends in the pricing section of our submission but would add that the NZIER research document adds that “current information indicates that by far the majority of minors who obtain alcoholic liquor in New Zealand get it from parents, friends or other adults” so it is debatable whether greater societal benefits would in fact result from a reduction or change in licensing hours.

We would add at this juncture that if there were restrictions in the hours of sale of liquor, that some discretion be given by allowing some flexibility on cut-off times, for instance a 15 minute window to facilitate sales to customers who are in a queue waiting to be served at the time of liquor sales “close off”. Further, we believe it is preferable to control the hours of sale of liquor at point of sale rather than regulate around merchandising and store layout which could have additional impacts on business operations.

### **3.3 Individual and Parental Responsibilities**

As stated earlier in our submission we are supportive of greater social responsibility being developed for the supply of liquor to young people. It is our belief that legislative controls in themselves will not solve the current problem and we see some merit in reintroducing legislation that would make it an offence to supply liquor to a young person unless it is a private social gathering and that the adult has the consent of the young person's parent or guardian.

### **3.4 Types of Products Available at Off-Licenes**

- We have supported the retention of wine and beer in supermarket and grocery stores;
- We support other alcoholic liquor being available through other off-licence premises;
- We do not believe that it would be socially acceptable to broaden the range of liquor products sold in supermarkets and grocery stores at the present time but suggest such a move should be kept under review.

### **3.5 Licensing Trusts**

In previous submissions we have supported as a matter of principle a review of those geographic areas of New Zealand where licensing trusts have exclusive rights to grant both on and off licences.

We would recommend that local polls should be held as a matter of course in these remaining trust areas at the time of the respective local body elections to ascertain whether or not the local communities are still supportive of ongoing trust control.

## **4. Demand reduction**

### **4.1 Tax/price**

#### **4.1.1 Introduction**

There is a huge assumption that by limiting purchase opportunities you limit consumption. We have not seen evidence to support this.

We accept that there are a variety of measures that could be put in place to mitigate concerns over alcohol availability and in particular the suggestions in the Commission's report concerning excise tax, minimum pricing and greater constraints over what are deemed to be irresponsible forms of advertising.

We accept that the Commission will pursue its investigations of all of these three issues.

However we have been advised by the NZIER in their July report that the effectiveness of regulatory controls such as an excise tax and minimum pricing in reducing consumption largely depends on the price elasticity of demand which measures the responsiveness of consumption to changes in price.

They also add that in fact there is no recent empirical information on the price responsiveness of alcohol consumption in New Zealand and, as a result, the Association believes the Commission should approach these issues with considerable caution.

#### 4.1.2 Excise Tax and Minimum Pricing

In the event that the Commission believes there is a relationship between price and consumption, we would support in principle to an increase in current levels of excise tax, and if it is proven to be the best policy instrument for minimising harm and recovering the social costs of alcohol harm.

We await further detail in the Commission's final report of how any increase in excise tax should be calibrated.

Minimum pricing however is an issue of major significance. As we understand it, the Commission is proposing to undertake research to determine whether or not a minimum pricing scheme should be introduced into New Zealand.

While minimum pricing has been introduced in Canada, and is being investigated in Scotland, we caution that as these markets are entirely different from New Zealand there is little relevance of those models being considered in this review.

Therefore we feel it is appropriate to present a supplementary submission when further detailed proposals and/or research becomes

available from the Commission, rather than including further comment within the scope of the current submission.

## **4.2 Advertising**

We do not support restrictions being introduced that would treat advertisements for price and discounts on a different basis to other forms of advertising.

We note the proposal that the LLA have grounds to suspend or cancel a particular licence if the licensee acts or engages in irresponsible promotional practices.

However, we are unaware of any evidence to substantiate the need for such controls and recommend that the specific suggestion not be pursued any further.

We also note that the Commission favours leaving the bulk of general regulatory controls to the Advertising Standards Authority which currently self regulates alcohol advertising and has recently developed a new Code for promotional advertising. We support this approach.

## **5. Problem Limitation**

### **5.1 Enforcement**

We note that the Commission is of the view that many aspects of the current law are not enforced given that enforcement is expensive, prosecutions can be long and drawn out and involve the Police in a lot of work and that a concentrated effort is required to simplify the law to make it more effective.

We acknowledge these particular concerns and are generally supportive of measures outlined in the issues paper which propose that:

- a Senior Police official be provided with powers to close outlets which are potentially in breach of the current law;
- reviewing the penalties for serious offences under the law;
- providing for an increased range of infringement notices for technical and minor breaches of the law; and
- providing a statutory process for the development of alcohol accords and where applicable Industry Self Regulatory Codes of Practice

### **5.2 Liquor Bans**

We have had limited exposure to the success or otherwise of liquor bans as a means of keeping order in difficult places such as urban centres.

Even so, we acknowledge that they do have a useful role where they have been implemented such as in Wellington, and we therefore support the Commission giving additional enforcement powers to Officers who are intent to enforce the ban - such as to make it an infringement offence to drink in a public place, where such a ban exists.

## **Conclusion**

We recognise the importance of the current review but have some reservations that the Commission will be able to adequately complete a robust analysis and present a comprehensive report within a six month window.

Even so we acknowledge that further submissions will be possible once the Government introduces legislation arising from its decisions on the Commission's report.

We would like to reaffirm our willingness to discuss these submissions with the Commission along with the detailed research reports already made available. We will also continue to have dialogue with the Commission and provide further information and data as it becomes available.

**New Zealand Retailers Association  
October 2009**

## Appendix I – Summary Range of Policy Options

Chapter 13 of the Commission's Discussion Document provides a summary range of policy options developed in the course of their preliminary consultation with individuals, organisations and government agencies.

To simplify the New Zealand Retailers Association's views on these policy options, we have highlighted the options that we consider to be either **preferable** on the list of proposals, and/or options that we would be **supportive of being further explored**. In both cases our indicated preference may not necessarily equate to our full support, but provides the Commission with a sense of what we believe to be the best direction from the range of options under consideration.

<p><b>Supply Controls</b></p>	<p><b>Purchase/Drinking Age Options</b></p> <p>(a) No change.</p> <p>(b) Increase the minimum purchase age from 18 to 19, 20 or 21 years from any licensed premises.</p> <p>(c) Create a split purchase age – that is leave the minimum purchase age at on-licences at 18 and increase the minimum purchase age at off-licences to 20 years.</p> <p>(d) Introduce a minimum age at which it is lawful to drink (rather than purchase) alcohol, for example 18 years, and make it an infringement offence to drink alcohol unless a person has reached this age.</p> <p>(e) Require mandatory age verifications for the sale of alcohol.</p> <p><b>Individual and Parental Responsibility for Young People's Drinking Options</b></p> <p>(a) No change.</p> <p>(b) Make it an offence for an adult to supply liquor to a young person other than that adult's child or ward.</p> <p>(c) Make it an offence for an adult to supply liquor to a young person other than that adult's child or ward without the consent of a parent or guardian of the young person.</p> <p>(d) Make it a legal requirement for adults supplying alcohol to a young person to supervise the consumption of the alcohol.</p> <p><b>Licence Options</b></p> <p>(a) Leave the system of four basic licences as it is.</p> <p>(b) Leave the system as it is, but remove the existing exemptions from the need to obtain a licence for some or all of the following: chartered clubs, police canteens, defence establishments, fire-fighters' facilities, and Parliament.</p> <p>(c) Have a single liquor licence with conditions added on to it to reflect the nature of the business.</p> <p>(d) Increase the licence fees to better reflect the costs that the granting of a particular licence is likely to generate.</p> <p>(e) Create a graduated licence fee structure to reflect the risk posed to the community by the relevant licence.</p> <p>(f) Clarify the requirements for managers and temporary managers, and require multiple managers for large licensed premises.</p> <p>(g) Increase the education, age and training requirements for managers and door staff working in all licensed premises.</p> <p><b>Liquor Licensing Authority Options</b></p> <p>(a) Maintain the status quo with regard to the functions and powers of the Liquor</p>
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	<p>Licensing Authority.</p> <p>(b) Transfer the functions of the Licensing Authority to the District Court.</p> <p>(c) Establish a special Licensing Commission with a substantial staff, with both enforcement and adjudicative powers.</p> <p>(d) Retain the Licensing Authority as the specialist regulator but give it enhanced powers and functions, for example to:</p> <ul style="list-style-type: none"><li>· monitor and report on trends and adjust aspects of sale policy like promotions.</li><li>· award costs.</li><li>· impose fines on licensees, managers and staff of licensed premises for breaches of any of the provisions of the Act.</li><li>· enhance the flow of data from inspectors, police, District Licensing Agencies (DLAs), medical officers of health, and licensees.</li><li>· implement quality control of DLA output and compliance.</li></ul> <p><b>District Licensing Agency Options</b></p> <p>(a) Leave the powers and functions of District Licensing Agencies (DLAs) as they are.</p> <p>(b) Abolish DLAs and incorporate their functions and powers in a central body.</p> <p>(c) Enhance the powers and functions of DLAs, for example by:</p> <ul style="list-style-type: none"><li>· Requiring higher levels of performance and reporting from DLAs.</li><li>· Allowing local authorities to keep the fines imposed as a result of their prosecutions.</li><li>· Providing for mandatory training for their inspectors.</li><li>· Enabling the setting of fees for the issuing of licences to allow the DLAs' functions to be performed effectively.</li><li>· Ensuring that DLAs' decisions are independent of the Council of the relevant local authority.</li><li>· Specifying by statute a particular membership for DLAs.</li></ul> <p><b>Licence Criteria and Objections Options</b></p> <p>(a) No change.</p> <p>(b) Change the law to allow the licensing decision-maker to refuse licences on wider grounds than at present, for example, on grounds that:</p> <ul style="list-style-type: none"><li>· the overall social impact of the licence is likely to be detrimental to the well-being of the local or broader community, taking into account matters such as the site of the proposed premises, the density and type of other premises in the area, and the health and social characteristics of the local population;</li><li>· granting the licence would be inconsistent with the object of the Act;</li><li>· the amenity, quiet or good order of the locality would be lessened by the granting of the licence.</li><li>· the licence would be inconsistent with the relevant local alcohol policy.</li></ul> <p>(c) Allow the licensing decision-maker to impose any licence condition it considers appropriate for the purpose of reducing alcohol-related harm.</p> <p>(d) Widen the category of persons who can object to a licence application.</p> <p>(e) Specifically authorise medical officers of health to report on all types of licences and licence renewals.</p> <p>(f) Better define and strengthen the criteria for suitability of licence applicants.</p> <p>(g) Improve the effectiveness and efficiency of the process for notifying the public of licence applications.</p> <p><b>Hours Options</b></p> <p>(a) No change.</p> <p>(b) Restrict the opening hours of all off-licences, for example from 8 am to 10 pm, on a nationwide basis.</p> <p>(c) Restrict on-licence premises from selling alcohol after a specified time, for</p>
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example 2 am, on a nationwide basis.

(d) The same as (c), but provide for a standing extension to serve alcohol until 4 am if the premises operates a one-way door policy whereby patrons can remain on the premises, but patrons cannot enter the premises after a specified time, for example from 1 am, as a condition of its licence.

(e) Have nationwide standard trading hours, but allow on-licence trading outside these hours if the licensee can satisfy the Licensing Authority that it has a plan to manage the risk of harm and contribute to the costs to the local community associated with extended hours.

(f) Allow each territorial authority to specify policies regarding opening hours and conditions around opening hours in a local alcohol policy, and require the licensing decision-maker to take this into account in licensing decisions.

#### **Prohibited Days Options**

**(a) No change.**

(b) Maintain the status quo, but specify the hour at which the prohibition begins, for example, 2 am.

(c) Prohibit the sale of alcohol by all licensees, including restaurants, on these prohibited days, but specify the hour at which the prohibition begins, for example, 2 am.

(d) Keep some but not all of the prohibited days, for example, Christmas Day.

(e) Extend the prohibited days to other public holidays.

(f) Allow the sale of alcohol from all types of licensed premises on all days of the year, including the prohibited days.

#### **Types of Off-Licence Premises Options**

**(a) No change.**

(b) Irrespective of the type of premises, allow an off-licence to be issued provided the application meets the general licence criteria (for example, the overall social impact of the licence is not likely to be detrimental to the well-being of the local or broader community).

(c) Specify and further restrict the type of premises in respect of which off-licences may be granted (for example, restrict supermarket sales; better define what constitutes a grocery store).

(d) Confine off-licence sales to dedicated liquor stores only.

#### **Off-Licence Product Options**

**(a) No change.**

(b) Allow all off-licence premises to sell all alcohol products.

(c) Prohibit the sale of some or all alcohol products currently able to be sold by supermarkets and grocery stores, for example, beer and wine.

(d) Provide a regulatory power to prohibit the sale of undesirable liquor products based on expert recommendations to the Minister.

(e) Allow the licensing decision-maker to restrict the type of alcohol products able to be sold as a condition of the licence.

#### **Options on Product Labelling and Serving Sizes**

**(a) No change.**

(b) Provide a regulatory power to restrict the alcohol content and size of packaged alcoholic beverages.

(c) Provide a regulatory power to require licensed premises to offer standard measures of wine, beer and spirits.

(d) Require health warning labels on alcohol products.

(e) Require nutritional information and ingredients to be listed on alcohol products.

#### **Licence Renewal Options**

	<p>(a) No change.</p> <p>(b) Provide for three-yearly applications for renewals of licences, but remove the requirement to advertise the application for renewal unless changes to the licence conditions are sought.</p> <p>(c) Create a “permanent” licence for licensees who have shown there are no issues with their performance in adhering to the regulatory regime, and where no change in licence conditions is sought. The licence would be reviewed if there was a complaint from the public or at the instigation of the police, a licensing inspector or a medical officer of health.</p> <p><b>Licensing Trust Options</b></p> <p>(a) No change.</p> <p>(b) Allow competition in the licensing trust areas where they currently have exclusive rights to grant on-licences and off-licences.</p>
<p><b>Demand Reduction</b></p>	<p><b>Excise Tax Options</b></p> <p>(a) Leave the current system as it is.</p> <p>(b) Increase the current levels of excise tax on alcohol.</p> <p>(c) Reduce tax on low alcohol products.</p> <p>(d) Pledge some or all of the excise tax collected from alcohol for expenses and costs associated with alcohol-related harm, for example, treatment.</p> <p>(e) Increase the Alcohol Advisory Council of New Zealand (ALAC) levy and use the proceeds for harm reduction initiatives.</p> <p>(f) Change to a pure volumetric excise tax system (that is, remove the current bands to make the rates more closely reflect volumes of alcohol).</p> <p>(g) Introduce regular reviews of excise rates (over and above the annual adjustment).</p> <p><b>Pricing Options</b></p> <p>(a) No change.</p> <p>(b) Regulate the pricing of alcohol by introducing a minimum price per unit of alcohol.</p> <p>(c) Prohibit the sale of alcohol as a loss leader.</p> <p>(d) Restrict the discounting of alcohol products.</p> <p>(e) Require the Licensing Authority to take into account past retail practice (including pricing and promotions behaviour) in licensing decisions and require liquor licensees to supply the necessary data.</p> <p>(f) Prohibit advertisements containing the price of alcoholic beverages.</p> <p>(g) Prohibit off-licence price promotions that create an economic incentive for consumers to buy larger amounts.</p> <p><b>Advertising Options</b></p> <p>(a) No change.</p> <p>(b) Introduce a system of enforced self-regulation to set out the public policy goals of the proposed system, roles of the body responsible for the self-regulatory system, and offences and sanctions.</p> <p>(c) Establish a legal framework and statutory body to regulate and control liquor advertising.</p> <p>(d) Leave most matters to the existing system of self-regulation but ban certain advertising by law, for example:</p> <ul style="list-style-type: none"> <li>· advertisements containing the price of alcoholic beverages;</li> <li>· advertisements of liquor discounts, sales, specials or irresponsible promotions;</li> <li>· advertisements aimed at marketing alcohol to young people;</li> </ul> <p>(e) Ban all advertising of all alcohol in all media.</p> <p>(f) Control television advertising between certain hours.</p> <p>(g) Restrict sponsorship linked to alcohol products.</p>

	<p>(h) Provide for a reserve power to regulate advertising only if there is evidence of a lack of compliance with the current self-regulatory scheme.</p> <p><b>Promotions Options</b></p> <p>(a) No change.</p> <p>(b) Establish a legal framework and statutory body to regulate some or all of the following:</p> <ul style="list-style-type: none"> <li>· packaging;</li> <li>· promotions;</li> <li>· point of sale placement;</li> <li>· display of alcohol products.</li> </ul> <p>(c) Require the licensing decision-maker to take into account previous harmful promotional practices in licensing decisions.</p>
<p><b>Problem Limitation</b></p>	<p><b>Enforcement and Penalties Options</b></p> <p>(a) No change to the current enforcement tools.</p> <p>(b) Increase the penalties for breach of licence conditions, including making it easier for a licensee to lose a licence.</p> <p>(c) Provide the police with the power to close a bar immediately to prevent further breaches of the Act or for serious public safety concerns based on behaviour in the licensed premises or in the immediate vicinity.</p> <p>(d) Provide the police and licensing inspectors with the ability to request an urgent hearing with the Licensing Authority if there are serious concerns or repeated breaches of the Act to expedite the Licensing Authority's consideration of the matter.</p> <p>(e) Provide for infringement notices to be issued for any technical or minor breach of the Act or a licence condition.</p> <p>(f) Provide a legal definition of intoxication for the purposes of enforcement in any new legislation.</p> <p>(g) Provide medical officers of health with the same powers of entry as licensing inspectors.</p> <p>(h) Remove the requirement for licensing inspectors to identify themselves when entering licensed premises.</p> <p>(i) Provide a statutory process for the development and recognition of alcohol accords for the purpose of minimising alcohol-related harm, and exclude these accords from the provisions of the Commerce Act 1986.</p> <p>(j) Make it an infringement offence to present fake evidence of age documents to a licensee.</p> <p>(k) Empower licensees to confiscate fake evidence of age documents, including driver licences, and hand these in to the Police.</p> <p><b>Alcohol in Public Places Options</b></p> <p>(a) Continue the status quo, where liquor bans are dealt with by way of local authority bylaws.</p> <p>(b) Provide the Police with a power to issue an infringement offence for breach of a liquor ban, with a reserve power of arrest for the purposes of safety of persons.</p> <p>(c) Place no restrictions on drinking in a public place.</p> <p>(d) Reintroduce the offence of being drunk in a public place.</p> <p>(e) Create an offence of drinking in a public place.</p> <p>(f) Provide a power for the police/Licensing Authority to ban specified persons from entering or remaining in an area or on specified premises within an area.</p> <p>(g) Provide that where the Police have reasonable cause to suspect that a beverage contains alcohol, and have taken steps to ascertain that the beverage contains alcohol, that shall be sufficient proof that the beverage in fact contains alcohol for the purposes of seizure and destruction of the alcohol.</p>

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	(h) Empower persons other than the police (for example, persons employed by local authorities) to transfer intoxicated persons home or elsewhere for safety reasons.
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## Appendix II – The Alcohol Market in New Zealand

### The Data

#### Assumption One:

The number of licensed premises has exploded in recent years and is totally out of control.

#### *The Reality:*

Year	No of Licensed Premises
1990	6295
1991	7200
1992	N/A
1993	N/A
1994	N/A
1995	11280
1996	11698
1997	11973
1998	11461
1999	11787
2000	12596
2001	13408
2002	14131
2003	14557
2004	15242
2005	14202
2006	14594
2007	14596
2008	15066
2009	14225

*Source: Distilled Spirits Association/Ministry of Justice Liquor Licensing Authority*

Since 1990 the number of licenced premises in New Zealand has risen from 6295 to 14225 having peaked in 2004 at 15242.

So... while the number has grown considerably since 1990, there has been a very stable picture since 2002. The initial growth (1990/95) reflected the change in the law permitting the grocery sector to be involved in the sale of wine and the rapid growth of cafes, restaurants and nightclubs throughout the country.

**Assumption Two:**

We are getting dozens of off-licences – there's a grog shop on every corner.

***The Reality:***

<b>Year</b>	<b>No of Off-License</b>	<b>% Total Licences</b>
1990	1675	27
1991	2182	30
1992	N/A	
1993	N/A	
1994	N/A	
1995	3436	30
1996	3461	30
1997	3578	30
1998	3404	30
1999	3508	30
2000	3785	30
2001	4062	30
2002	4364	31
2003	4364	30
2004	4568	30
2005	4280	30
2006	4387	30
2007	4383	30
2008	4508	30
2009	4206	30

*Source: As Above*

As with “total licenced premises” the off-licence numbers grew from 1990 when the grocery sector became involved. Currently 4206 outlets hold an off licence with these numbers peaking back in 2004 at 4568. Since 1991 the share of licence numbers held by off licence operators has been constant at 30%.

**Myth Three:**

Greater availability of alcohol has resulted in people drinking more.

***The Reality:***

When we consider the total pure alcohol and total volume of alcoholic beverages available on a per capita basis we see the true reality. Has the increase in outlet numbers resulted in greater consumption of alcohol?

**Volume of Pure Alcohol/Capita (all persons 15+)**

	Litres/capita
1986	10.96
87	10.10
88	9.81
89	9.96
1990	10.12
91	9.65
92	9.50
93	9.04
94	9.26
95	9.04
96	8.76
97	8.64
98	8.62
99	8.81
2000	8.84
01	8.77
02	9.14
03	8.92
04	9.16
05	9.32
06	9.35
07	9.20
08	9.50

*Source: Statistics NZ*

So... on a “pure alcohol” equivalised basis we have seen consumption decline from 10.96 litres in 1986 to 9.50 litres in 2008.

In spite of the increase in outlet numbers (both on and off licence) consumption has declined. It “bottomed out” in 1998 at 8.62 litres per head and even today at 9.50 litres it is still 13% below the 1986 level – ie. before the changes to the Sale of Liquor Act in 1989.

This trend is further demonstrated when we consider per capita consumption on a “volume consumed basis”.

	Litres Consumed/Head
1986	181.4
87	178.4
88	167.4
89	168.3
1990	168.5
91	159.6
92	158.0

93	152.9
94	154.1
95	150.3
96	144.8
97	138.0
98	139.4
99	141.3
2000	138.2
01	138.1
02	141.6
03	139.1
04	139.2
05	141.5
06	140.8
07	140.8
08	143.9

Again we get a similar pattern. The annual consumption per head of population is currently some 20.6% below where it was in 1986.

Increased availability has **NOT** resulted in increased consumption.

#### **Assumption Four:**

Our drinking habits are “out of hand” and are getting worse by the day, particularly among young people.

#### ***The Reality:***

We absolutely realise that ‘two wrongs don’t make a right’ and drinking by young people does need a change in behaviour.

The WHO have developed a measure to give a totally numeric score of the ‘proportion of drinkers with a potentially hazardous drinking pattern’. This has been reviewed by age group and gender and the studies have been conducted by the Ministry of Health.

There is no question that young people have a problem with around 40% falling into the ‘potentially hazardous drinking pattern’ group compared with the following:

<b>Age group</b>	<b>Proportion of drinkers with a potentially hazardous drinking pattern (2006/07)</b>
15 – 24	41.1
25 - 34	27.1

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35 - 44	19.2
45 - 54	14.2
55 - 64	14.0
65 - 74	9.1
75+	5.2

*Source: Ministry of Health*

Males have consistently higher scores than females.

However, while our young show the worst score it is not deteriorating over time:

1996/97	Male	49.8
	Female	31.6
	Total	40.8
2002/03	Male	45.8
	Female	31.0
	Total	38.7
2006/07	Male	49.2
	Female	32.6
	Total	41.1