



## **The Distilled Spirits Association of New Zealand**

### **Submission to the Rotorua District Council on its Draft Local Alcohol Policy**

March 2014



## Introduction

The Distilled Spirits Association of New Zealand (DSANZ) is the national trade organisation representing New Zealand's leading producers, distributors, brand owners, importers and exporters of premium spirits and spirit-based drinks.

DSANZ members are Bacardi New Zealand Holdings Ltd, Beam Inc, Brown-Forman, Diageo, Hancocks, Independent Liquor, Lion, Moet-Hennessy, Pernod Ricard New Zealand and The Rum Company (NZ). In addition we have three associate members who are Anchor Ethanol, EuroVintage and Federal\*Geo.

Together DSANZ represents over 98% of spirit industry interests in New Zealand.

DSANZ has a direct interest in the development of Local Alcohol Policies (LAPs) as we believe through LAPs, combined with other properly planned and supported interventions, Territorial Authorities have the opportunity to help reduce the harm caused by excessive alcohol consumption.

We would welcome any further discussion the Rotorua District Council might have about the contents of this document.



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## Summary Comments

- 1) DSANZ is supportive of the high level intent of Council to develop measures to reduce the harm caused by excessive or inappropriate consumption of alcohol. As an industry the alcohol sector is also committed to helping reduce such harm.
- 2) Our belief is that harm minimisation will only be achieved through a long term evidence-based programme combining good policies and regulations with targeted educational interventions aimed at understanding and then changing harmful drinking behaviours. On this latter point we would point out that the alcohol industry represented by DSANZ, New Zealand Winegrowers and the Brewers' Association of Australia and New Zealand have jointly developed a harm minimisation programme called The Tomorrow Project. At the core of this project is a programme called *Cheers!*
- 3) *Cheers!* aims to understand the drivers that lead to excessive drinking and its associated negative outcomes and then address these through a range of activities and programmes. We invite the Council to view *Cheers!* online at [www.cheers.org.nz](http://www.cheers.org.nz).
- 4) The Tomorrow Project would be happy to share with Council the research and thinking behind its approach to harm minimisation and to jointly seek ways of working together to promote a moderate drinking culture.
- 5) Although we understand and support Council's intent with regards LAPs we would point out that alcohol consumption is caused by a complex array of socio-cultural factors including age, gender, social status, ethnicity, perceptions related to the impact of heavy drinking and so on. Under the weight of these multi-level factors DSANZ believes that regulating outlet density, hours of operation and access to venues, by itself, will not necessarily have the generational impact needed to change our drinking behaviour.
- 6) This is not to say that the draft LAP will not have some impact but what is not clear is what this impact might be and whether it will reduce harmful drinking (i.e. will reduced opening hours change the behaviour of those who want to drink to excess? Probably only to the extent of how, where and perhaps when they source their drinks to support their behaviour).
- 7) We would ask Council to clarify both the metrics it intends to use to measure 'harm' and how it intends to support behaviour modification for the minority of drinkers who drink to excess on a regular basis.
- 8) DSANZ would also bring to Council's attention the recent development of a voluntary industry code relating to the production and distribution of ready-to-drink spirit-based beverages (RTDs). This code (attached as Appendix 1) limits the strength of RTDs by capping their ABV to a maximum of seven per cent and two standard drinks.<sup>1</sup> The full implementation of the code will impact almost 50 per cent of the RTD market.

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<sup>1</sup> The combination of these two factors reduces the ABV below 7% depending on vessel size for e.g. a 440ml RTD will have an ABV of around 6%.

- 9) If Council saw value in the code then we would welcome its adoption as a special licencing provision or perhaps as part of guidelines to the District Licensing Committee. It should be noted that all major retail chains and DB have also agreed to abide by the code.
- 10) We also note that Council is proposing a ban on the sale of single cans/bottles of RTDs (and beer) from off licence premises. The implication of this suggestion is that such sales must somehow contribute to unwanted drinking behaviours more than other products.
- 11) We believe that to single out one beverage type or product line – no matter what it might be – is neither evidenced-based nor will it reduce harm by actively promoting a change in drinking behaviour. We would ask that Council reconsider this condition.
- 12) In our view it is not what we are drinking but the way we are drinking that is the most important consideration. For the latest research on drinking behaviours and trends which gives some insights in this regard we refer Council to the recently published Health Promotion Agency report – *Attitudes and Behaviour Towards Alcohol Survey, 2009-2011*.<sup>2</sup>
- 13) Lastly DSANZ believes that whatever the final outturn of the Council's proposed LAP, that its provisions for on and off licences should apply equitably and consistently across all licence types and categories. This equitable treatment not only applies to premises but to alcoholic beverages themselves as it is our belief that the impacts of alcohol are the same whether it comes in the form of wine, beer, cider, spirits or any alcohol product sold for consumption.

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<sup>2</sup> This report can be found at <http://www.hpa.org.nz/sites/default/files/ABAS%202009-2011%20Report%201%201%20Adults%20drinking%20behaviour%20report.pdf>

## **Drinking Moderately for Enjoyment and Drinking to Excess – The Critical Tension**

- 14) We note that in developing its draft LAP, Council has tried to address a range of different factors it believes is contributing to unwanted drinking behaviour. In so doing Council has implicitly acknowledged the tension that exists within communities attempting to address concerns with excessive or inappropriate drinking.
- 15) To support a vibrant community environment Council understands the need to encourage and promote accessible, appropriate and enjoyable entertainment options which will include making alcohol available through on and off-premise outlets. The tension exists when access to alcohol is abused and the amenity value of a community and the health and safety of the public is compromised.
- 16) Council is seeking to better address this tension through the development of an LAP which, under the provisions of the Sale and Supply of Alcohol Act, gives it the ability to alter licence arrangements to, in this case, manage the perceived harm caused by excessive or inappropriate drinking behaviour.
- 17) DSANZ would firstly point out that the vast majority of drinkers do so enjoyably, safely and in moderation and that any regulatory intervention must take this into account.
- 18) Secondly we believe that regulating through means such as an LAP will not, by itself, necessarily reduce harmful drinking. We strongly believe that an integrated approach which links well thought out and introduced regulatory interventions with targeted educative/behaviour modifying programmes is necessary to properly address drinking issues.
- 19) This is because excessive drinking is caused by a complex array of factors that intermingle into a socio-cultural set of drivers including age, gender, social status, ethnicity, perceptions related to the impact of heavy drinking and so on. DSANZ urges Council to take these factors into account when developing policies designed to reduce or manage harmful drinking.
- 20) To illustrate the complex nature of the tension that exists between drinking for enjoyment and drinking to excess we examine briefly the drivers that underpin youth-related drinking patterns.

## Youth and Drinking

- 21) Internationally, the prevalence of problem drinking among young people is an acknowledged concern.
- 22) Evidence suggests that an overlapping of poor socio-emotional control<sup>3 4 5</sup> combined with social pressure and changing social structures<sup>6</sup> (such as the impact of peer influence and parents) contribute to increases in problem drinking pattern among youth.
- 23) The International Centre for Alcohol Policies<sup>7</sup> (ICAP) has identified that one of the strongest single factors in predicting negative drinking patterns and consequences in youth is having unrealistic personal expectancies of drinking (e.g. thinking that only positive consequences will come from heavy drinking). In this same review ICAP also identified factors that provided some protection against negative drinking patterns including:
- a) **Family** – good communication with parents and positive family support structures
  - b) **Religion/spirituality** – appears to serve as a protective factor against problem drinking in high school and university
  - c) **Strong social network** – is a positive factor against heavy drinking and drinking problems, especially in stressful situations
  - d) **Accurate perception of peer norms** – young people’s perception of how their peers drink appears influential on their own drinking patterns
  - e) **Responsible drinking skills** – evidence suggests that learning to moderate drinking behaviour through early intervention or through programmes of activities (e.g. have a designated driver) changes overall behaviour over time
- 24) Additionally the Chief Medical Officers of England, Wales and Northern Ireland<sup>8</sup> have also outlined some issues to be considered in relation to alcohol consumption by youth. These include:
- a) Early onset of drinking is shown to be linked to the development of alcohol abuse and dependence
  - b) The establishment of family standards, rules and parental monitoring has been shown to be important in delaying early adolescent alcohol consumption
  - c) Children who begin consuming alcohol below the age of 13 drink more frequently and are more likely to drink to intoxication and to develop alcohol dependence in later life

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<sup>3</sup> Dahl, R (2004). Adolescent brain development: A period of vulnerabilities and opportunities. *Annals of New York Academy of Science*, 1021, 1-22.

<sup>4</sup> Steinberg, L (2007). Risk taking in adolescence: New perspectives from brain and behavioural science. *Current Directions in Psychological Science*. 16, 55-59.

<sup>5</sup> Steinberg, L (2008). A social neuroscience perspective on adolescent risk-taking. *Developmental Review*, 28, 78-106.

<sup>6</sup> Roche, A.M., Bywood, P.T., Borlagdan, J., Lunnay, B., Freeman, T., Lawton, L., Tovell, A. & Nicholas, R. (2007). *Young People and Alcohol: The Role of Cultural Influences*. National Centre for Education and Training on Addiction. Adelaide.

<sup>7</sup> International Centre for Alcohol Policies (ICAP) Washington D.C. [www.icap.org](http://www.icap.org).

<sup>8</sup> Guidance on the consumption of alcohol by children and young people, 2009. A report by the Chief Medical officer UK Government.

- 25) This snapshot of information illustrates some of the difficulties associated with achieving changes in drinking behaviour – and how regulatory intervention alone will fall short of achieving sustainable reductions in drinking harm. As we have already stated above, we believe an integrated approach across a continuum of regulatory and educational interventions would have positive impacts on drinking culture.
- 26) We further believe that to develop effective programmes that change drinking behaviour all key participants in the sector including industry, retailers, central government agencies and local government need to be involved.
- 27) The discussion above also serves to highlight that applying strictures on drinkers by limiting access and supply (through LAPs, pricing, taxation, reducing advertising and promotion and so on) may impact alcohol consumption but not necessarily harmful consumption. This is because supply-side regulation does not impact the behaviours that underpin problem drinking.
- 28) This also holds true when consider types of alcohol currently available. Ready-to-drink spirit-based beverages (RTDs) are often cited as being the root cause of our so-called binge drinking culture when there is little evidence to support this.
- 29) Evidence suggests that drinkers under the age of 35 purchase product based on two key determinants – alcoholic strength and price<sup>9</sup> not on alcohol type and that they substitute their choice of alcohol actively to meet these two requirements. Based on this DSANZ has recently developed and promulgated a voluntary code for RTDs to limit the alcoholic strength of the product.
- 30) Among other things the code limits the alcoholic strength of RTDs to a maximum ABV of 7% AND two standard drinks. These two factors combine to impact almost half the RTDs currently on the market.
- 31) As an example of how the code will work consider that at the time of writing there are RTDs sold in 440ml containers at an ABV of 8%. Under the code, to stay on the market at 440ml, the ABV would need to drop to under 6% ( $ABV = 2 \text{ std drinks} / (0.440\text{l} \times 0.789^{10}) = 5.76\%$ ).
- 32) We attach a copy of the code as Appendix 1 for the Council's attention and would welcome its inclusion, as appropriate, in any debate about licencing provisions – special or otherwise. It should be noted that all major liquor retail chains have agreed to abide by the code but that we, as an industry, have no way of controlling either the parallel importing or straight substitution of different brands of product that fall outside the lower ABV/two standard drink rules as detailed in the code.

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<sup>9</sup> Curia Market Research Limited, 2010

<sup>10</sup> 0.789 is the specific gravity of ethanol at standard temperature and pressure. This conversion is necessary because a standard drink is measured as 10 grams of alcohol whereas ABV is measured as a percentage of volume).

## Single Serve RTD (and Beer) Sales Restriction

- 33) Based on the discussion above we draw attention to Council's proposal to place conditions on off licences to prevent the sale of single bottles or cans of RTDs<sup>11</sup>.
- 34) Given that a Local Alcohol Plan is being developed to support the Object of the Sale and Supply of Alcohol Act 2012 we would contend that there is no true evidence that a ban on single serve products (of any kind) would achieve – or even contribute – to this.
- 35) It is our belief that, if consumption of single cans or bottles of any product in a liquor ban area is an issue, then this is a matter for enforcement agencies to properly engage existing powers as opposed to the targeting of a type of product.
- 36) We also feel that a ban on single serves of any product will only mean that risky drinking behaviour shifts to other products or, perhaps ironically, to the purchase of larger quantities or packs of product to be 'split up' at some later date. This would contradict the basis for the Council's Local Alcohol Policy and the Object of the sale and Supply of Alcohol Act 2012.
- 37) Given the complexities of managing a change in drinking behaviour as detailed above, developing such broad reaching policies without properly verified supporting evidence is not appropriate. We strongly recommend that if Council wishes to pursue this policy that it does so based on evidence determined using a properly constructed research programme which assesses the impact of the policy on harmful or inappropriate drinking behaviour.
- 38) In addition to the above we would also note:
- a) It is unclear whether Council is concerned with the availability of single cans or bottles or the identification of single cans and bottles in the community. By this we mean are customers purchasing single cans or bottles of product or are they purchasing product packs and simply removing one can or bottle as desired – again an element of the effectiveness discussion that could form part of a properly constructed research programme; and
  - b) It is our view that banning single sales of RTDs and beer will not change the behaviour of those who would drink to excess – they will simply purchase another product.
  - c) Council references RTDs as being from 5% - 12% ABV. As discussed above RTDs are now only produced by DSANZ members to a maximum ABV of 7% and in containers that cannot contain more than two standard drinks.
  - d) Additionally, if Council is suggesting that RTDs are an implicit cause of harmful drinking behaviour then we would refer you to the following references which shed some light on this issue:
    - i) Kraus L., Metzner C., Piontek D., 2010. Alcopops, alcohol consumption and alcohol-related problems in a sample of German adolescents: Is there an alcopop-specific effect? Drug and Alcohol Dependence 110, 15-20.

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<sup>11</sup> Section 5.2, page 23 – draft local alcohol policy



- ii) Wicki M., Gmel G., Kuntsche E., Rehm J., Grichting E., 2006. Is alcopop consumption in Switzerland associated with riskier drinking patterns and more alcohol-related problems? *Addiction* 101, 522-533.

39) We would ask Council to reconsider its position on the sale of single serve alcoholic drinks.

## **Measuring Success**

- 40) It is unclear from Council's published documents how the success or otherwise of the proposed LAP will be measured.
- 41) DSANZ urges Council to develop and communicate such measures and, in doing so, recommends 'harmful drinking' is properly defined so that a direct understanding can be gained (and measured) as to the impact of the proposed LAP.

## **Harmonisation and Equity Arrangements**

- 42) As a principle DSANZ believes that LAPs across Territorial Authority boundaries need to be properly harmonised to prevent confusion or issues with geographical substitution.
- 43) We ask Council to inform stakeholders as to how you will ensure that the development of the LAP will be co-ordinated with those of neighbouring Territorial Authorities.
- 44) We also believe, that whatever the final outcome of the Council's proposed LAP, that its provisions for on and off licences should apply equitably and consistently across all licence types and categories. This is because we believe that to allow one licence type to trade differently to another is contrary to the Object of the Sale and Supply of Alcohol Act.

## Appendix 1



### **Voluntary Industry Code for RTDs**

***We, the members of the Distilled Spirits Association of New Zealand, have developed the following Voluntary Industry Code for ready to drink beverages and have committed to abide by the details hereunder.***

Ready to drink beverages (commonly referred to as “RTDs”) have been part of the New Zealand beverage landscape for many decades. They offer a convenient beverage format providing consistent pre-measured amounts of alcohol, as measured by standard drinks. This, together with clear labelling information about alcohol content, can assist consumers to more accurately measure their alcohol intake.

New Zealand’s leading producers and marketers of ready to drink beverages recognise that RTDs can be a beverage popular with younger consumers. Therefore, extra special attention is required in the product development and marketing. Furthermore, New Zealand’s leading producers and marketers of ready to drink beverages are united in implementing a voluntary set of steps to better ensure these beverages are enjoyed within the ‘norm’ of responsible alcohol consumption in New Zealand.

#### **Definition:**

*For the purposes of this VIC, an RTD is defined as:*

- i. *a spirit-based alcoholic beverage mixed/diluted to an Alcohol by Volume (abv) range of 4% up to 14% (above which products become liqueurs as per S73,75 of the Customs & Excise Act 1996); and*
- ii. *sold in a primary package intended for single serve (i.e. in a vessel with contents of 500mls or less).*

#### **The members of the DSANZ commit to do the following:**

1. Limit the production and/or distribution of RTDs to a maximum alcohol strength of 7% ABV and a maximum of two standard drinks per single serve container to all licensed premises in New Zealand.
2. Not produce RTDs containing energy supplements with greater caffeine-equivalence than cola products as set out in Standard 1.3.1 “Food Additives” of

the Australia New Zealand Food Standards Code, which limits the amount of added caffeine in these products to a maximum of 145 mg/L. Nor, will we market/promote the effects of caffeine in any products that meet this commitment.

3. Ensure that the number of standard drinks in each container is clearly visible and displayed on both primary and secondary packaging.
4. Ensure that RTDs are marketed in accordance with the *Code for the Advertising & Promotion of Alcohol* and *Section 237 of the Sale & Supply of Alcohol Act 2012* so they do not have specific appeal to, nor are targeted at, those below legal purchasing age (LPA).
5. Advertise only in media channels or engage in sponsorship where the audience is at least 75% LPA and above.
6. Pro-actively work to improve the drinking culture in New Zealand and help minimise harmful consumption, through industry funded initiatives, such as *The Tomorrow Project* ([www.cheers.org.nz](http://www.cheers.org.nz)).
7. Work with our retail customers to encourage compliance with this code taking due note of all relevant legal constraints (such as those defined by the Commerce Act 1986).

***RTDs which do not comply with the above commitments will be progressively removed from the manufacturing and distribution process from March 2013 with the intention that they no longer be supplied into the retail network from the end of September 2013 onwards.***

***DSANZ Members:***

Bacardi New Zealand Holdings Ltd  
Beam Inc  
Brown-Forman  
Diageo  
Hancocks  
Independent Liquor  
Lion  
Moet-Hennessy  
Pernod Ricard New Zealand  
The Rum Company (NZ)