



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

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

November 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 and Pernod Ricard New Zealand. In addition we have three associate members who are Anchor Ethanol, EuroVintage and Federal Merchants.

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 Waikato District Council might have about the contents of this document. On this basis we request the opportunity to speak to our submission.



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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 LAPs by themselves are a blunt instrument and will not achieve the necessary generational behaviour change that will create a moderate drinking culture.
- 6) This is because regulating outlet density, hours of operation, access to venues and the quantity and type of alcohol that can be served or sold do not address the core drivers of excess drinking. Only when proper programmes are developed that do just this will we see the necessary changes in drinking behaviour.
- 7) This is not to say that the draft LAP will not have some impact but it is not clear what this impact might be (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).
- 8) On this basis we would ask Council to clarify both the metrics it intends to use to measure 'harm' (such as hospital admissions) and how it intends to support behaviour modification for the minority of drinkers who drink to excess on a regular basis.

- 9) 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 has impacted almost 50 per cent of the RTD market.
- 10) 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 have also agreed to abide by the code.
- 11) We also note that Council is proposing a discretionary condition that would allow for restrictions on the 'kinds of alcohol to be sold'<sup>2</sup> under off-licences. We believe that to single out any beverage type or product line – no matter what it might be – is outside of the scope of Council powers under the Sale and Supply of Alcohol 2012, is not evidenced-based (nor based on a common sense approach to drinking behaviour), is anti-competitive and essentially unworkable.
- 12) Nor do we believe singling out any one beverage type will reduce harm by actively promoting a change in drinking behaviour or reduce harm. We would ask that Council reconsider thus draft provisions (we note a similar provision is contained under the Special Licence section of the draft LAP).
- 13) In our view Council is focusing on what people are drinking rather than how they are drinking. The former merely shifts drinking habits either geographically or between products (i.e. substitution) while the latter addresses behaviours and delivers lasting reductions in harmful drinking. 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>3</sup>
- 14) If Council is concerned about intoxication in certain areas or from certain premises then there already exists enforcement remedies under the Sale and Supply of alcohol Act 2012 that if properly exercised would make an immediate and on-going impact on deleterious drinking behaviours.
- 15) Lastly DSANZ believes 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 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>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%.

<sup>2</sup> Draft LAP section 5.7.1

<sup>3</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**

- 16) We note that in developing its draft LAP Council has implicitly acknowledged the tension that exists within communities attempting to address concerns with excessive or inappropriate drinking.
- 17) To support a vibrant community 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.
- 18) 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 2012, gives it the ability to alter licence arrangements to, in this case, manage the perceived harm caused by excessive or inappropriate drinking behaviour.
- 19) 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. In other words we support targeted interventions rather than blanket regulatory overlays.
- 20) 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.
- 21) 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.
- 22) Notwithstanding this we would point out that it is our belief that if properly enforced in identified 'problem areas' then behaviour-changing remedies are already available to Council under the Sale and Supply of Alcohol Act 2012. For example strict policing of Liquor Ban areas coupled with instant fines for public intoxication would be both targeted and effective in beginning to change drinking behaviours.
- 23) 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. We believe this is appropriate given much of what the draft LAP purports to impact is focused on the younger drinker.

## Youth and Drinking

- 24) Internationally, the prevalence of problem drinking among young people is an acknowledged concern.
- 25) Evidence suggests that an overlapping of poor socio-emotional control<sup>4 5 6</sup> combined with social pressure and changing social structures<sup>7</sup> (such as the impact of peer influence and parents) contribute to increases in problem drinking pattern among youth.
- 26) The International Centre for Alcohol Policies<sup>8</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
- 27) Additionally the Chief Medical Officers of England, Wales and Northern Ireland<sup>9</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>4</sup> Dahl, R (2004). Adolescent brain development: A period of vulnerabilities and opportunities. *Annals of New York Academy of Science*, 1021, 1-22.

<sup>5</sup> Steinberg, L (2007). Risk taking in adolescence: New perspectives from brain and behavioural science. *Current Directions in Psychological Science*. 16, 55-59.

<sup>6</sup> Steinberg, L (2008). A social neuroscience perspective on adolescent risk-taking. *Developmental Review*, 28, 78-106.

<sup>7</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>8</sup> International Centre for Alcohol Policies (ICAP) Washington D.C. [www.icap.org](http://www.icap.org).

<sup>9</sup> Guidance on the consumption of alcohol by children and young people, 2009. A report by the Chief Medical officer UK Government.

- 28) 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.
- 29) 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.
- 30) 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.
- 31) This also holds true when consider types of alcohol currently available. Ready-to-drink spirit-based beverages (RTDs) are often cited as being one of the causes of our so-called binge drinking culture when there is little evidence to support this.
- 32) Evidence suggests that drinkers under the age of 35 purchase product based on two key determinants – alcoholic strength and price<sup>10</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.
- 33) 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.
- 34) 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% ( $ABV = 2 \text{ std drinks} / (0.440\text{l} \times 0.789^{11}) = 5.76\%$ ).
- 35) 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>10</sup> Curia Market Research Limited, 2010

<sup>11</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.

## The Drinking Myth in New Zealand

- 36) As intimated above there is an often-cited misrepresentation of a so-called binge drinking culture in New Zealand. There is little doubt that a small proportion of drinkers consume alcohol to excess but ALAC (now the HPA) and Ministry of Health both point to the myth of this claim with published evidence.
- 37) Again we focus on youth as reported negative drinking behaviours are mostly associated with younger drinkers.

### New Zealand-Specific Evidence Relating to Youth and their Drinking Habits

- 38) A review of ALAC and Ministry of Health information shows significant improvements in consumption patterns among youth in key areas including:
- a) The age of drinking initiation
  - b) The proportion of young people drinking
  - c) Binge drinking by youth
  - d) Hazardous drinking
  - e) Frequency of drinking
- 39) We summarise this for Council below and ask that this evidence is taken into account when considering the final outcome of its LAP.

**The age of initiation of drinking by youth 12-17 is increasing.**

Year	Age of Initiation
2003	13.8 years of age
2005/6	13.9 years of age
2006/7	13.8 years of age
2007/8	14.1 years of age
2008/9	14.3 years of age
2009/10	14.6 years of age

Source: ALAC

**More young people are choosing not to drink**

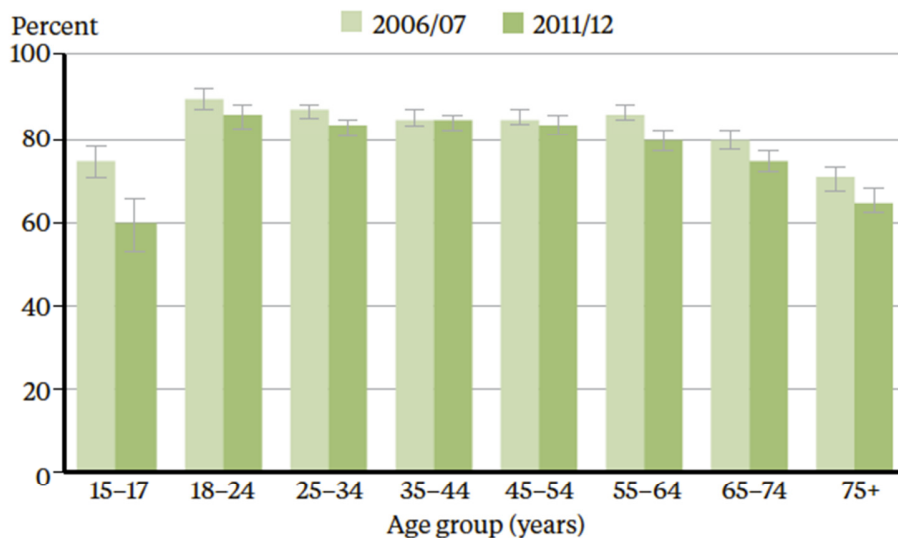
	2005/6	2006/7	2007/8	2008/9	2009/10
<b>Non-Drinkers (%)</b>	47	48	48	50	68
<b>Drinkers (%)</b>	53	52	52	50	32

Source: ALAC (Youth defined as 12 – 17 years)



40) The above table is supported by the more recent Ministry of Health research *Hazardous Drinking in 2011/12 – Findings from the New Zealand Health Survey* which found that youth drinkers aged 15-17 fell from 75% in 2006/07 to 59% in 2011/12 (see Figure 2 below).

**Figure 2 – Has consumed alcohol in the past 12 months, by age group, 2006/07 and 2011/12<sup>12</sup>**



Source: Ministry of Health

#### **Binge Drinking by Youth is Falling<sup>13</sup>**

Year	Percentage Binge Drinking
2005/6	19.6
2006/7	21.3
2007/8	22.9
2008/9	19.5
2009/10	15.0

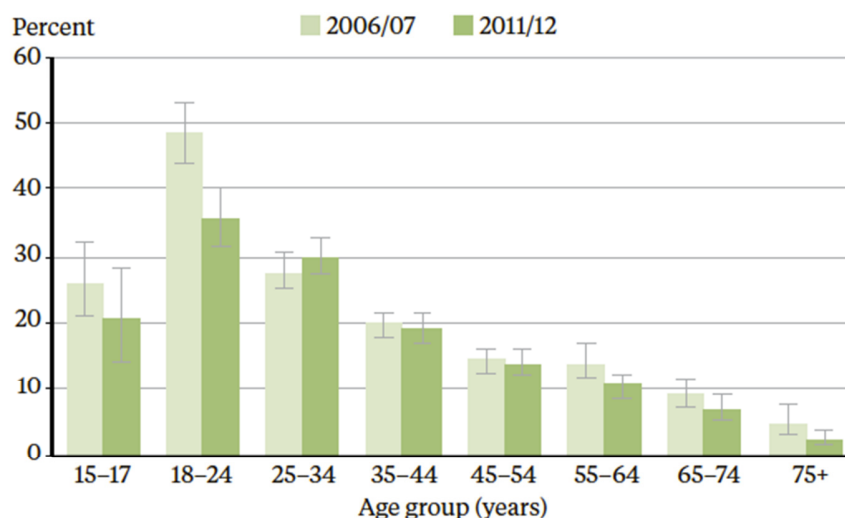
Source: ALAC

41) Again the information above is supported by the Ministry of Health's *Hazardous Drinking in 2011/12 – Findings from the New Zealand Health Survey* (see Figure 3 below). We do note that there was a change in methodology between 2008/9 and 2009/10 but believe there is an established trend in this area.

<sup>12</sup> Note that all cohorts showed some reduction in consumption

<sup>13</sup> ALAC defines binge drinking as having consumed five or more drinks on the last occasion

**Figure 3 – Hazardous drinking, among past year drinkers, by age group, 2006/07 and 2011/12<sup>14</sup>**



Source: Ministry of Health

#### Frequency of Drinking by Youth is Falling

Year	Percentage of all youth (12-17) that drink more than once a week
2005	10
2005/6	6
2006/7	9
2007/8	9
2008/9	7
2009/10	3.5

Source: ALAC

- 42) In summary, the amount of alcohol being consumed by youth; the frequency of consumption; the amount of hazardous consumption and the onset of consumption are moving in directions that give a lie to the view that we have a binge drinking crisis in New Zealand. And interestingly these consumption patterns are also demonstrated internationally.
- 43) In April 2014 a study published by Dr Michael Livingston<sup>15</sup> from the National Drug and Alcohol Research Centre (NDARC) at the University of New South Wales found the percentage of Australian adolescents who did not drink<sup>16</sup> increased from 33% in 2001 to just over 50% in 2010.

<sup>14</sup> Note that, except for the 25-34 cohort all other cohorts showed a fall in hazardous consumption for the period analysed.

<sup>15</sup> Livingston M. Trends in non-drinking amongst Australian adolescents. *Addiction*, 109: doi: 10.1111/add.12524

<sup>16</sup> Defined as not drinking alcohol over the past 12 months

- 44) The study also found that in recent years there has been a sharp decline in teenage drinking in many other countries. In the United States, for example, the prevalence of alcohol use among 8th graders (typically aged 13 – 14 years) fell from 54% in 1991 to 24% in 2012. In England the proportion of 10 – 15-year-olds who had consumed alcohol at least once had fallen from 61% in 2003 to 45% in 2010.
- 45) We would point out that our objective of listing this evidence here is not to try and persuade Council that there is no need for harm minimisation strategies but rather point out that:
- a) Harmful drinking behaviours are coming down
  - b) There is not a crisis of binge-drinking in New Zealand and what is largely reported is more a measure of media appetite for the sensational rather than a true reflection of drinking patterns
  - c) What is needed is a carefully developed set of interventions that leverages off this changing set of consumption patterns to increase the momentum for change
  - d) And once again – the blunt instrument of an LAP, as currently proposed, will not do this.

## **Proposed Restrictions on the Type of Alcohol Sold**

- 46) Based on the discussion above we draw attention to Council's proposal to create discretionary provisions for off licences to prevent the sale of 'Kinds of Alcohol to be sold'<sup>17</sup>.
- 47) Given that Council has stated its intent is to support the Object of the Sale and Supply of Alcohol Act through the development of an LAP we would contend that there is no true New Zealand evidence that a condition that allowed for a product or products to be banned as condition of granting a licence would effectively support the Object of the Act.
- 48) More than this we believe that attempting to restrict the sale of a product or product type is outside of Council's mandate as prescribed in the Sale and Supply of Alcohol Act 2012.
- 49) The Act is not silent however on its ability to restrict the type of product available for sale – but then these powers are limited only to those defined in sections 398 – 400 which does not include beer, wine or cider. In short, Council cannot do what the Minister is only empowered to do or is not empowered to do at all.
- 50) From the above discussion it can be seen that we have deep concerns as to the legality of Council attempting to restrict trade in certain product types through the draft LAP. We would ask that Council think again about the appropriateness – both from an evidential as well as a constitutional basis - of this approach.

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<sup>17</sup> Draft local alcohol policy, section 5.7.1

## Evidence

- 51) We are aware that Council will have been presented a range of arguments to restrict trading hours, product type and disposition, outlet density and so on. These arguments will cite a range of references in support of these positions.
- 52) It is our opinion that the research supporting an interventionist view is mostly flawed and is based on either poor methodology or uses base correlations to support recommendations. There is an inherent assumption that a correlation proves cause (and in most cases the 'cause' that has led to the correlated effect is cited as being alcohol) when this is simply erroneous.
- 53) For example there is no reliable evidence to suggest a causal relationship between licence density or opening hours with levels of harm. The vast bulk of research seeks to prove little more than a correlation between the amount of anti-social and violent behaviour in an area with the number of liquor outlets or trading hours.<sup>18</sup>
- 54) It would almost seem self-evident however that in areas where there are more people there would, necessarily, be the potential for more violence and therefore the potential for an increase in measured correlation in this regard. To attribute the increase in harm solely to alcohol based on this correlation is simplistic and inappropriate.
- 55) We would ask Council to assess evidence based on its ability to properly attribute harm to alcohol rather than local population-based correlated effects.

## Measuring Success

- 56) It is unclear from Council's published documents how the success or otherwise of the proposed LAP will be measured.
- 57) 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.

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<sup>18</sup> A Review of the Evidence for Restrictions on Alcohol Retailing. The impact of trading hours, license density, one-way door policies, store location and the underlying causes of violent and anti-social behaviour, Lion 2014.

## **Harmonisation and Equity Arrangements**

- 58) As a principle DSANZ believes that LAPs across Territorial Authority boundaries need to be properly harmonised to prevent confusion or issues with geographical substitution.
- 59) 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)