



The Distilled Spirits Association of New Zealand

Response to the Auckland Council's preferred position paper for its Draft Local Alcohol Policy

October 2013



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 thank the Auckland Council for the opportunity to comment on its preferred position paper and would welcome any further discussion 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 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.
- 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 the development of its LAP we would point out that alcohol consumption is influenced 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 harmful drinking behaviour.
- 6) In this regard we believe that specific controls on the sale and supply of so-called 'single serve' products will not be effective— nor will it, in our experience, achieve the basic intent of Council with regards drinking in liquor ban areas and pre and side loading.
- 7) This is not to say that LAPs will not have some impact on behaviour 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).
- 8) We would therefore 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.

- 9) Lastly DSANZ believes that whatever the final outcome of 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 impact of alcohol depends on the amount consumed not the packaging or type.

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

- 10) We note that in developing its preferred position paper, Council has referred to the Object of the Sale and Supply of Alcohol Act 2012 (SSAA) as being a “key consideration for the evaluation of policy options”¹ it is considering for its final LAP.
- 11) The Object of the SSAA (section 4) states:
- (1) The object of this Act is that—
 - (a) the sale, supply, and consumption of alcohol should be undertaken safely and responsibly; and
 - (b) the harm caused by the excessive or inappropriate consumption of alcohol should be minimised.
 - (2) For the purposes of subsection (1), the harm caused by the excessive or inappropriate consumption of alcohol includes—
 - (a) any crime, damage, death, disease, disorderly behaviour, illness, or injury, directly or indirectly caused, or directly or indirectly contributed to, by the excessive or inappropriate consumption of alcohol; and
 - (b) any harm to society generally or the community, directly or indirectly caused, or directly or indirectly contributed to, by any crime, damage, death, disease, disorderly behaviour, illness, or injury of a kind described in paragraph (a).
- 12) By (quite rightly) referencing the SSAA’s Object, Council has implicitly acknowledged the tension that exists within communities attempting to address concerns with excessive or inappropriate drinking.
- 13) 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.
- 14) Council is seeking to better address this tension through the development of an LAP which, under the provisions of the SSAA, gives it the ability to alter licence arrangements to, in this case, manage the perceived harm caused by excessive or inappropriate drinking behaviour.
- 15) 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.
- 16) 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 regulatory interventions with targeted educative/behaviour modifying

¹ Section 3.3, Page 8- preferred position paper

programmes is necessary to properly address drinking issues.

- 17) 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 Councils to take these factors into account when developing policies designed to reduce or manage harmful drinking.
- 18) 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

- 19) Internationally, the prevalence of problem drinking among young people is an acknowledged concern.
- 20) Evidence suggests that an overlapping of poor socio-emotional control^{2 3 4} combined with social pressure and changing social structures⁵ (such as the impact of peer influence and parents) contribute to increases in problem drinking pattern among youth.
- 21) The International Centre for Alcohol Policies⁶ (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

² Dahl, R (2004). Adolescent brain development: A period of vulnerabilities and opportunities. *Annals of New York Academy of Science*, 1021, 1-22.

³ Steinberg, L (2007). Risk taking in adolescence: New perspectives from brain and behavioural science. *Current Directions in Psychological Science*. 16, 55-59.

⁴ Steinberg, L (2008). A social neuroscience perspective on adolescent risk-taking. *Developmental Review*, 28, 78-106.

⁵ 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.

⁶ International Centre for Alcohol Policies (ICAP) Washington D.C. www.icap.org.

- 22) Additionally the Chief Medical Officers of England, Wales and Northern Ireland⁷ 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
- 23) 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 in paragraph (16) above, however, we believe an integrated approach across a continuum of regulatory and educational interventions would have positive impacts on drinking culture.
- 24) 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.
- 25) 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 impact the behaviours that underpin problem drinking in the first place.
- 26) This also holds true when you 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 no evidence to support this.
- 27) Evidence suggests that drinkers under the age of 35 purchase product based on two key determinants – alcoholic strength and price⁸ not on alcohol type and that they substitute their choice of alcohol actively to meet these two requirements. Based on this, as Council is already aware, DSANZ has recently developed and promulgated a voluntary code for RTDs to limit the alcoholic strength of the product.
- 28) Among other things the code limits the alcoholic strength of RTDs to a maximum ABV of 7 per cent AND two standard drinks. These two factors combine to impact almost half the RTDs on the market prior to the full promulgation of the code.

⁷ Guidance on the consumption of alcohol by children and young people, 2009. A report by the Chief Medical officer UK Government.

⁸ Curia Market Research Limited, 2010

- 29) We attach a copy of the code as Appendix 1 for the Councils' attention and re-iterate that we would welcome its inclusion, as appropriate, in any debate about licencing provisions or as part of guidelines to District Licencing Committees. 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.

Single Serve Ban

- 30) Based on the discussion above we draw attention to Council's proposal to regulate the sale of so-called 'single serve' RTDs and beer⁹ from off-licences positioned in or around liquor ban areas and/or on-licences.
- 31) Given that Council has stated its intent is to support the Object of the SSAA through the development of an LAP we would contend that there is no true evidence¹⁰ that a ban on single serve products would achieve – or even contribute – to this.
- 32) 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.
- 33) We would also point out that the term 'single serve' is not defined (and also note that Council has acknowledged this) and that neither cider or wine products seem to be considered within this gamut. We strongly recommend these definitional issues are properly considered with close industry input prior to consultation on a draft LAP.
- 34) In addition to the above we would also note:
- a) If the intent of the single serve proposal is to reduce pre or side loading then, based on our understanding of the complexities in and around the motivation to undertake such activity, it would seem that a single serve ban would not stop alcohol sales per se – merely shift sales to other products. We feel this type of behaviour could form part of a research programme designed to determine the effectiveness of the proposed single serve policy;
 - b) Council has acknowledged that liquor ban breaches occur between the hours of midnight and 3am on weekends.¹¹ Under proposed operating hours, off-licences will have been closed for some time prior to this (10pm). It would seem a sensible approach to allow any new operating hours to come into force and then monitor their impact on drinking behaviour before unilaterally banning the sale of single serve products;
 - c) It is unclear whether customers are purchasing single cans or bottles of product or are purchasing product packs and simply removing one can or bottle as

⁹ Section 4.3, page 11 – preferred position paper

¹⁰ Conversations with Council officers suggest the single serve proposition is based on anecdotal evidence

¹¹ Section 8.2, page 23 – preferred position paper

- desired – again an element of the effectiveness discussion that could form part of a properly constructed research programme; and
- d) It is our view that by far the most effective method of preventing unwanted behaviour in liquor ban areas is through more active and stringent enforcement rather than by restricting the sale of alcohol from ‘nearby’ outlets. We believe that not being able to buy an RTD or beer will not change the behaviour of those who would drink in liquor ban areas – they will simply purchase another product.

Measuring Success

- 35) It is unclear from Council’s published documents how you will measure the success or otherwise of the proposed LAP.
- 36) DSANZ urges Council to develop and communicate such measures and include this as part of its consultation on its draft LAP. As part of this DSANZ is interested in Council’s definition of harmful drinking and how it sees the LAP positively impacting this.

Harmonisation and Equity Arrangements

- 37) As a principle DSANZ believes that LAPs across Territorial Authority boundaries need to be properly harmonised to prevent confusion or issues with geographical substitution.
- 38) We also believe, that whatever the final outcome of the Councils’ proposed LAP, that its provisions for on and off licences should apply equitably and consistently across all licence types and categories.

Other Comments

- 39) *Cumulative Impact Assessments* – we believe the proposal to have cumulative impact assessments undertaken in a range of circumstances during a licences application process needs further definition as under Sections 100 and 103 (in particular) of the SSAA much of the information the impact assessment seems to be seeking will be available. Further, the proposal should be assessed in light of the good order and amenity provisions already detailed in the SSAA.
- 40) *Individual responsibility* – we note that on page 9 of the preferred position paper Council states that it seeks an “*increase [in] individual responsibility for the safe consumption of alcohol.*” DSANZ supports this approach but would point out that nothing in the preferred position paper support either an increase or change in individual responsibility.
- 41) *Alcohol consumption* – also on page 9 of the preferred position paper is the assertion that policies are being designed to pursue outcomes including “*an overall reduction in the*

consumption of alcohol...". We believe this is not consistent with the Object of the SSAA and would point out that:

- a) Consumption of alcohol in New Zealand is falling and has been for some time;
and
- b) DSANZ is committed to working with central and local government on the reduction of harmful alcohol consumption in a context which acknowledges that the majority of consumers drink appropriately and moderately.

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).
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)