

Alcohol Advisory Council of New Zealand

Submission to the
New Zealand Law Commission
on the *Alcohol in Our Lives*
Issues Paper

23 OCTOBER 2009



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KEY TO ACRONYMS

ACC – Accident Compensation Corporation

ALAC – Alcohol Advisory Council of New Zealand

AOD – Alcohol and other drug service

ASA – Advertising Standards Authority

BAC – Blood alcohol content

CBD – Central business districts

CCTV – Closed Circuit Television

DHB – District Health Board

DLA – District Licensing Agencies

FSANZ – Food Standards Australia New Zealand

HANZ – Hospitality Association of New Zealand

LLA – Liquor Licensing Authority

MLDA – Minimum legal drinking age

NGO – Non-governmental organisation

RTD – Ready-to-drink beverage

SFE Act 1990 – Smoke-free Environments Act 1990

SOLLE Bill – Sale and Supply of Liquor and Liquor Enforcement Bill

ALAC'S SUBMISSION

FOREWORD

About ALAC

The Alcohol Advisory Council of New Zealand (ALAC) was established by the Alcohol Advisory Council Act 1976 and amendments, and is an Autonomous Crown entity under the Crown Entities Act 2004.

Our primary statutory objective is:

... the encouragement and promotion of moderation in the use of liquor, the reduction and discouragement of the misuse of liquor, and the minimisation of the personal, social and economic harm resulting from the misuse of liquor.

Under its Act, ALAC is responsible for carrying out a range of functions related to developing policy, advice, research, awareness raising and developing and supporting effective preventive and treatment interventions. Our functions are stated in section 8 of the Act, and they include making recommendations to the Government, Departments of State, authorities in the fields of health, education, social welfare, and industry and any other public or private bodies, associations, or persons.

Alcohol harm and the case for change

The enormous amount of alcohol-related harm experienced in New Zealand makes for tragic reading and has been very well canvassed in the *Alcohol in our lives* issues paper. The evidence is overwhelming that alcohol harm is not just a small problem experienced by a minority with an alcohol addiction problem. Rather it is a problem that is impacting on the lives, in some way or other, of most New Zealanders.

The case for intervention has been well made. The system for managing alcohol, including societal structures and the regulatory environment, directly influences the way we drink. New Zealand needs a regulatory system that reinforces and supports the extensive number of non-regulatory measures and community and individual efforts that also go into achieving the safe and healthy drinking culture we want for our whānau and communities.

Principles and criteria

This submission is based on the need to target areas of greatest harm using evidence-based measures. In evaluating the policy options in *Alcohol in our lives*, and in making recommendations in this submission, we have endeavoured to be both pragmatic and focused on effective change.

The options, policy positions and recommendations that ALAC proposes have therefore been evaluated using the following criteria. We believe that they:

- are supported with evidence
- are of high effectiveness in addressing alcohol harm
- target the areas of greatest harm

- do not unreasonably restrict the freedoms of New Zealanders
- are easy to implement.

Our submission focuses on the areas of greatest potential benefit and issues requiring further consideration by the Law Commission.

Submission layout

The key points and recommendations that ALAC wishes to make are presented in short chapters, with summary sections (in shaded text) at the end of each chapter. The chapters are:

- **Availability and access**
- **Price and promotion of alcohol**
- **A safe drinking culture for our youth and our future**
- **Road trauma**
- **Treatment**
- **Supporting management structures and tools.**

A list of ALAC's key policy positions on options proposed in *Alcohol in our lives* can be found in a separate section at the end of this document ("**ALAC policy positions**").

More detailed discussion on specific options can be found in the **appendices** to this submission.

We have also considered the interaction of proposed interventions and how various measures, depending on which ones are ultimately selected by Government to proceed, will work best together to achieve the greatest benefit. Some interventions may directly target certain harm, such as youth drinking (for example, a change to the purchase age), but others will also impact on harmful youth drinking, such as those concerning opening hours and community say. In some cases, interventions will only be effective if certain others are introduced. Implications concerning the packaging of interventions are discussed in a section towards the end of this submission ("**Effective packaging of measures**").

AVAILABILITY AND ACCESS

ALAC has been concerned for some time about the proliferation of alcohol outlets, the trend towards 24 hour licensing and the increased affordability of alcohol, which have increased the overall availability and accessibility of alcohol and associated alcohol harm.

Alcohol outlets concentrated in particular areas and longer opening hours lead to increased risk of alcohol-related harm. There is uncertainty over the extent to which licensing decision-makers need to have regard to local alcohol policies, and their legal status is unclear. Licences are too easy to get, as the grounds for objecting to applications are too narrow, and licences are difficult to lose. Communities are finding they have little or no say in the process for granting or declining liquor licences.

ALAC supports measures to increase community say, and supports local alcohol policies being given clear legal status and being something the licensing decision-makers must take into account (rather than making the policy supreme). ALAC supports local alcohol policies being required of all local authorities to ensure all communities, especially those that would benefit most from having an alcohol policy, get the opportunity to influence how alcohol is managed in their community. It is important, from a resourcing perspective, that such a requirement is accompanied by the proposed restructure of licensing fees. Local authorities should have the final say when it comes to approving their alcohol policies. Local alcohol policies should be consistent with the object of the Sale of Liquor Act 1989.

ALAC strongly supports allowing licensing decision-makers to refuse a licence on wider grounds than permitted at present, including: likely detrimental social impact; inconsistency with the object of the Act; likely lessening of the amenity, quiet or good order of the locality; and inconsistency with the relevant local alcohol plan.

ALAC supports the ability for licensing decision-makers (both local and national) to impose any reasonable condition on a licence, and believes that effective guidance should be provided on what a reasonable condition would be to ensure consistency and remove the risk of costly legal challenges.

ALAC supports removing all existing exemptions for obtaining a licence to sell alcohol. We are firmly of the opinion that all who serve or sell alcohol should have a licence to do so and we don't believe that there is any good reason why an exception should apply to anyone who sells alcohol.

ALAC does not support the Law Commission's preference to remove restrictions on the type of premises able to apply for off-licences, because the proposed widened grounds for refusing licences may not be a sufficient safety net to control alcohol availability and the proliferation of alcohol outlets. Removing restrictions on the types of off-licence premises will open up off-licences to a wide range of new potential off-licence applicants, including department stores, hardware stores, bargain shops, video hire outlets and party hire stores. A key concern that we have about these types of premises selling alcohol is whether they would have the appropriate systems, qualified staff and training to comply with the law and manage any risk. We are similarly concerned about small grocery stores and dairies, some of which currently sell alcohol. Licensing decision-makers may be put under pressure to accept applications without adequate capacity to design and monitor conditions. This is likely to produce wide inconsistencies and anomalies across the country, and, ultimately, ubiquitous availability of off-licence alcohol.

ALAC does, however, agree that there are issues with the current provisions as they relate to the types of premises which may be granted an off-licence, and that it is time to redesign the criteria so that they will work in today's retail and social environment. Such new provisions should aim to:

- ensure that alcohol is not being sold in premises that are not well equipped to manage risk and comply with the law
- reduce the risk that further proliferation of alcohol outlets will occur in neighbourhoods with large numbers of people who are already disproportionately impacted by alcohol harm
- challenge the perception that alcohol is an ordinary commodity
- ensure that, at the very least, no additional types of premises (additional to those eligible under the existing law) are able to get an off-licence.

We are mindful that any decision on this issue needs to be considered in the context of broader decisions that impact on availability and access, such as opening hours and price.

The trend towards 24 hour liquor licensing is contributing to increasing alcohol-related harm including night-time disorder, violence and problems for police. Having longer opening hours provides for greater availability and is linked to crime and injuries. Varying closing times between areas doesn't allow for the concentration of resources to prevent harm, and incentivises the transference of harm to areas with longer opening hours and other harmful behaviours such as drink driving.

ALAC therefore supports the Law Commission's proposed option of introducing a nationwide set of trading hours, restricting off-licence hours to 8am to 10pm, and on-licences until 2am.

While introducing nationwide hours would reduce availability and therefore harm, and would address issues with consistency of trading hours, it would not address the current lack of community say. One of the Law Commission options would enable variation from the nationwide set of hours but only where the licence applicant applies for such a variation. ALAC considers it preferable to consider an option providing for local variation where the community or local authority desires such a variation.

Therefore ALAC proposes allowing for community say and local variation (extensions or shortening) of the nationwide on-licence trading hours via a well-consulted local alcohol policy, and where licence applicants can demonstrate to the licensing decision-maker that they have a plan to manage the risks of extended trading hours including complying with conditions specified in local alcohol policies. ALAC also proposes allowing for community say and local shortening of the nationwide off-licence trading hours, via a well-consulted local alcohol policy, in order to protect certain community areas, for example around schools.

This approach to opening hours will provide the greatest benefits in terms of reducing availability and alcohol harm, supporting a responsible and moderate drinking culture, and providing as much consistency as possible while allowing for community say. The evidence supports reducing opening hours as a means of successfully reducing alcohol harm. The nationwide hours will target the greatest harm (weekend night-time drinking) while not overly restricting the freedoms of most New Zealanders wishing to drink responsibly.

As there is limited evidence of the benefits of one-way door policies enabling extensions to on-licence trading hours, ALAC does not specifically agree or disagree with this proposal at this time. We note that these policies provide a compromise for those people wanting to socialise beyond the standard trading hours. The Law Commission's 4am proposed extension for one-way door policies would be inconsistent with current practice and we would therefore suggest recommending a 3am one-way door closing time.

ALAC supports no change to the currently prohibited days of sale, because ALAC does not have a position on days of cultural or religious significance. ALAC's concern is primarily with reducing alcohol-related harm. While we acknowledge that increasing the number of prohibited days (i.e. reducing the days of the year on which alcohol is available) would reduce availability and therefore reduce alcohol harm, such options are unlikely to be a practical and reasonable response to the harm that occurs, and would unfairly impact on responsible New Zealanders. We note that to reduce the number of prohibited days would increase alcohol availability and potentially also increase alcohol harm.

Further information supporting our position on access and availability can be found in Appendix 1.

In summary, the increased availability and access to alcohol has become a major contributor to alcohol-related harm. Interventions are needed to reduce availability, access and alcohol harm, support a responsible and moderate drinking culture, and provide as much consistency as possible while allowing for community say. Therefore ALAC:

1. agrees that all local authorities should be required to consult with communities by way of the special consultative procedure
2. supports local alcohol policies being mandatory to ensure all communities are able to benefit
3. strongly supports allowing the Liquor Licensing Authority and District Licensing Agencies to refuse a licence on wider grounds than permitted at present, including: likely detrimental social impact; inconsistency with the object of the Act; likely lessening of the amenity, quiet or good order of the locality; and, inconsistency with the relevant local alcohol plan
4. supports the ability for both national and local licensing bodies to impose any reasonable condition on a licence, as long as effective guidance is provided on what a 'reasonable condition' should be (e.g. mandatory security staff at certain times)
5. supports introducing a nationwide set of trading hours, restricting off-licence hours to 8am to 10pm, and on-licences until 2am
6. proposes allowing for community say and local variation (extensions or shortening) of the nationwide on-licence trading hours via a well-consulted local alcohol policy, and where licence applicants can demonstrate to the licensing decision-maker that they have a plan to manage the risks of extended trading hours including complying with conditions specified in local alcohol policies
7. proposes allowing for community say and local shortening of the nationwide off-licence trading hours via a well-consulted local alcohol policy, in order to protect certain community areas, for example around schools

8. agrees that it is time to redesign the off-licence premises criteria so that they will work in today's retail and social environment. New provisions for the types of off-licence premises should take an approach which aims to:
 - a. ensure that alcohol is not being sold in premises that are not well equipped to manage risk and comply with the law
 - b. reduce the risk that further proliferation of alcohol outlets will occur in neighbourhoods with large numbers of people who are already disproportionately impacted by alcohol-related harm
 - c. challenge the perception that alcohol is an ordinary commodity
 - d. ensure that, at the very least, no additional types of premises (additional to those eligible under the existing law) are able to get an off-licence
9. does not support the Law Commission's preference to remove restrictions on the type of premises able to apply for off-licences, because the proposed widened grounds for refusing licences may not be a sufficient safety net to control alcohol availability and the proliferation of alcohol outlets
10. supports the retention of the current simple four-licence type licensing system
11. supports removing all licensing exemptions for chartered clubs, police canteens, defence establishments, fire-fighters' facilities and Parliament.

PRICE AND PROMOTION OF ALCOHOL

International evidence and research are clear about the effectiveness of reducing alcohol-related harm through increasing the price of alcohol and restricting its promotion. Accordingly, ALAC supports increasing the retail price of alcohol and restricting alcohol advertising, promotions and sponsorship. However, ALAC considers that it is unclear what mechanisms would be the most effective in the current New Zealand context to achieve these objectives and these issues are discussed below.

Price

The use of increases in price to reduce alcohol-related harm is one of the most evidence-based and internationally well-accepted strategies but changes to the New Zealand alcohol market in recent years have eroded its effectiveness. Over the past 20 years, alcohol has become more affordable overall while the full cost of increases in excise tax has not always been passed on to consumers, instead being partially absorbed by the producers, retailers and the hospitality industry. ALAC considers there is a case to increase the retail price of alcohol to reduce the incidence of heavy sessional drinking, as proposed by the Law Commission.

Price competition for the liquor market is driven by supermarkets and liquor retail chains. Their ability to buy in bulk means they can pass on significant discounts to customers. The result is that many outlets, big and small, will offer heavily discounted specials to attract customers and encourage them to buy in larger amounts, for instance larger pack sizes or two-for-one deals. ALAC considers that the main problem is cheap off-licence prices.

Currently, the excise tax system does not fully reflect alcohol content in the price. For example, a bottle of wine with alcohol content at the top end of the band (14%) is paying less tax per litre of alcohol than a bottle of wine with 9% alcohol content. ALAC is of the view that the excise structure needs to be reviewed to ensure the tax burden is spread so that the more alcohol purchased, the more tax payable. The rate should be primarily tied to the volume of alcohol in the beverage. However, we would stop short of advocating absolutely 'pure volumetric taxation' as it would result in spirits being sold at a much lower cost per standard drink. Variations may be needed either to make up for varying production costs (as is the case with spirits and wine), or for practical and industry-specific reasons.

Although a straight increase in excise tax rates over and above the inflation adjustment would increase the current disparities in the excise structure, it has the advantage of being the easiest to implement, since the administrative apparatus for it already exists. ALAC considers that there may be a case to increase excise tax, but recommends that any decision about this should follow policy work to compare it with a minimum price option.

A mandatory minimum retail price is designed to target cheap alcohol and operate in addition to the excise tax system, with research showing that health and social benefits can accrue from such a scheme. However, efforts to assess the potential impact of a minimum price in New Zealand have been hindered by a lack of sales data that shows the volumes being sold at various prices. ALAC supports a minimum retail price policy in theory as an alternative to increasing the excise tax rates, but recommends that further research and policy work is needed to determine what the magnitude and nature of the impact would be in New Zealand relative to any increase in excise tax. ALAC also recommends that to enable further work to

happen, the lack of access to sales data (price and volume) for the purposes of policy analysis needs to be addressed. Off-license premises are obliged under the Sale of Liquor Act to provide the Liquor Licensing Authority (LLA) with sales data if requested, so it seems reasonable that the same data in aggregate form should be supplied.

There is a lack of control on the practices and promotions of off-licence premises compared with on-licence premises. It has been suggested that off-licences should be subject to a similar requirement as section 154(a) of the Sale of Liquor Act which prohibits the promotion of excessive consumption of alcohol on licensed premises. ALAC agrees, and recommends that there should be a new legal provision requiring off-licences to engage in socially responsible marketing and retailing practices. This, combined with specific restrictions on harmful off-licence price promotions (which may also complement a minimum retail price) and the empowerment of the LLA to take into account past off-licence retail practice, could form the basis of LLA guidelines and a code of practice to support compliance.

In addition, ALAC recommends a specific prohibition on pricing practices or promotions that create an economic incentive for consumers to buy larger amounts.

ALAC further recommends that, in addition to the legislative requirements described above, steps towards the creation of a voluntary code for off-licences be initiated, especially if local alcohol plans were strengthened and included a range of conditions, for example a limit on product display areas. There could be a synergy between local alcohol policies and a code of good practice.

The rationale for reducing or eliminating excise tax for low-alcohol beverages is to stimulate the market for low-alcohol beverages, thus leading to increased consumption of these in place of higher-alcohol beverages. Although exempting low-alcohol beverages from excise tax would not cause a dramatic reduction in harm, ALAC believes it would be beneficial by helping to facilitate more low-alcohol choices, more use of low-alcohol beers in harm reduction initiatives, and ultimately changes in people's drinking habits. Therefore, ALAC continues to support the removal of the excise tax on low-alcohol products.

ALAC does not support the proposal to prohibit liquor price advertising as a price policy option. Although it would greatly reduce the number of off-licence price promotions, it would not prevent retailers from offering very cheap alcohol. The alternative options are more targeted, with fewer apparent drawbacks.

Promotion of alcohol

Research has found that there is a statistically significant relationship between the level of exposure to alcohol promotion and the level and patterns of alcohol consumption, particularly for young people.

Although the evidence base is increasingly clear about the adverse impacts of alcohol promotion, it is unclear how best to deal with the issue, while avoiding perverse results or unreasonably impacting on New Zealand's economy. Given this complexity, ALAC recommends as a priority, that a whole of government process, similar to 'Smokefree', be initiated to deal with alcohol promotion. The 'Smokefree' process restricted tobacco advertising progressively over time, beginning with the ending of tobacco advertising on television and radio followed by cinema advertising and outdoor billboards. Health warnings on cigarette packets were first voluntary and then were made compulsory. The Smoke-free Environments Act 1990 led

to a ban on print advertising and strict restrictions on shop signs followed by the phasing out of tobacco sponsorship.

The impact of alcohol promotion on young people, however, is of immediate concern. The most recent research, published in 2009, concludes that advertising and other promotions influence the drinking decisions of young people and this provides strong evidence to argue that young people should not be exposed to alcohol advertising, sales promotions and sponsorship. Measures to restrict exposure would contribute greatly to reducing the age of onset of drinking for many young people.

Therefore, ALAC proposes that measures should be taken to reduce the exposure to alcohol promotions of those under the minimum purchase age. Practices that would help to limit this exposure include a 9:30pm watershed for broadcast advertising material, restrictions on advertising on public transport (including bus shelters) and cinemas, restrictions on price promotions (e.g. two-for-one deals and happy hours, as research shows youth to be particularly price sensitive) and limiting areas of supermarkets where alcohol is displayed.

Limiting exposure of young people to alcohol sponsorship, however, is a complex issue. For example, Heineken has announced that it will be the “worldwide partner and the official beer of Rugby World Cup 2011 in New Zealand”. There should be further consideration, as a matter of urgency, to the ways in which those under the legal purchase age are exposed to sponsorship, particularly in sport and activities that are attractive to young people, such as music festivals.

Recently, a voluntary code was developed for alcohol promotions by the Advertising Standards Authority (ASA) but it does not apply to on-license premises. ALAC considers that all of those in the alcohol industry should abide by the same principles for alcohol promotion, and that these should be established in legislation.

Therefore, ALAC recommends that the principles and codes for advertising and promotion of alcohol should be enshrined in law, rather than being voluntary. Further, ALAC proposes that a breach of the principles and or/codes should be considered a breach of licensing conditions, helping to ensure responsible behaviour on the part of licence holders.

Further detail on our response to the options suggested in *Alcohol in our lives* can be found in Appendix 2.

In summary, international evidence and research support the use of advertising restrictions and price mechanisms as effective alcohol harm reduction tools. However, ALAC considers that it is unclear what mechanisms would be the most effective in the current New Zealand context to achieve these objectives, while avoiding perverse results or unreasonably impacting on the New Zealand economy. Therefore, ALAC:

1. agrees with the Law Commission's overall conclusion that there is a case to increase the retail price of alcohol to reduce the incidence of heavy sessional drinking
2. agrees that the excise structure needs to be reviewed to ensure the tax burden is spread so that the more alcohol purchased, the more tax payable
3. supports the removal of the excise tax on low-alcohol products
4. supports a minimum retail price policy in theory as an alternative to increasing the excise tax rates, but recommends that further research and policy work are needed to determine what the magnitude and nature of the impact would be in New Zealand relative to any increase in excise tax
5. recommends that to enable further work to happen, the lack of access to sales data (price and volume) for the purposes of policy analysis needs to be addressed
6. agrees that there may be a case to increase excise tax, but recommends that any decision about this should follow policy work to compare it with the minimum price option
7. proposes a legislative requirement that off-licence alcohol marketing and retailing practices be socially responsible, similar in concept and principle to that which already exists for on-licence marketing and retail practices. This could be supported by Liquor Licensing Authority guidelines and a code of practice
8. agrees that the Liquor Licensing Authority should be empowered to take into account past off-licence retail practice (including pricing and promotions behaviour) in licensing decisions and require liquor licensees to supply the necessary data
9. supports the proposed prohibition of pricing practices or promotions that create an economic incentive for consumers to buy larger amounts than otherwise intended
10. recommends that, in addition to the legislative requirements regarding alcohol marketing and retailing practices, steps be taken towards the creation of a voluntary code of good practice for off-licences, similar to the way in which on-licence price promotions are regulated
11. proposes that measures should be taken to reduce the exposure to alcohol promotion of those under the minimum purchase age
12. recommends that principles and codes for the promotion of alcohol should be enshrined in law, rather than voluntary
13. proposes that a breach of the principles and/or codes should be considered a breach of licensing conditions
14. recommends as a priority that a whole of government process, similar to 'Smokefree', be initiated to deal with the issue of alcohol promotion.

A SAFE DRINKING CULTURE FOR OUR YOUTH AND OUR FUTURE

Binge drinking is a characteristic of New Zealand's alcohol environment and our young people have embraced this way of drinking. Approximately a third of youth drinkers aged 12 – 24 binge drink, with consequent negative impacts on themselves and New Zealand society, such as alcohol-related offending, injuries and motor vehicle crashes.

Further, ALAC research indicates that young people aged 14 – 18 years of age have experienced an increase in consumption since the purchase age was lowered in 1999. Consumption increased at the lowered purchase age of 18 but also extended to younger age groups. Of particular concern is that a significant proportion of young drinkers aged 15 – 17, an age group that shows pronounced binge drinking behaviour, acquire alcohol from friends 18 years or over and, as *Alcohol in our lives* points out, this situation is exacerbated by half of school students in year 13 turning 18 during the school year. This 'halo' or 'trickle down' effect, whereby someone aged 18 or 19 is providing alcohol to younger teenagers, particularly those in the 15 – 17 year age group who binge drink, is of considerable concern to ALAC as it causes significant alcohol-related harm, particularly for 12 – 17 year old drinkers.

As the Law Commission makes clear, evidence from New Zealand and overseas shows that raising the minimum purchase age can reduce youth drinking and alcohol-related harm. Such a measure would effectively target the 'trickle down' effect as 20 year olds are less likely to supply 15, 16 and 17 year olds, although it is acknowledged that 20 year olds may supply 18 and 19 year olds, particularly when many of these age groups are living away from home for work or tertiary study. Therefore, ALAC maintains its historic position that the minimum purchase age be 20 years.

ALAC supports the parental consent option put forward by the Law Commission but recommends that it be an offence for *any person* to supply alcohol to a young person under 18 without the consent of a parent or guardian of the young person. This, in combination with a raising of the minimum purchase age, would provide a further legal measure to target the supply of alcohol to young people aged 15, 16 and 17 from older suppliers but would also include young people under 18 supplying each other. It will also give parents/guardians recourse to the law if their child is supplied alcohol without their consent while providing discretion for parents or guardians to supply alcohol to their children. Specifying a young person as under 18 avoids the difficulties associated with gaining consent when 18 or 19 year olds living away from home are supplied by older drinkers or supply each other.

About half of youth drinkers aged 12 – 17 obtain alcohol from their parents or guardians, many of whom have a liberal attitude to their children consuming alcohol. Although most parents supervise their teenagers' consumption of alcohol, an ALAC parental survey showed that 21% of parents reported that they had supplied alcohol to teenagers when they were not present to supervise.

Given this, ALAC supports the Law Commission proposal regarding adult supervision but recommends that it apply to *any person* supplying alcohol to a young person under 18 to make it consistent with the parental consent option above.

The parental consent and supervision options recommended above do not depend on the level of the minimum purchase age. In both cases a supplier of alcohol to a person under 18 will need the consent of a

parent or guardian and will be required to supervise the consumption of the alcohol regardless of the minimum purchase age.

The parental consent and supervision options become more important in targeting the 'trickle down' effect in the event that the minimum purchase age is not raised to 20 years. Although it is possible that a split purchase age may help to mitigate the 'trickle down' effect by making it more difficult for 18 and 19 year olds to purchase alcohol from off-licence premises, ALAC does not support this option as there seems to be no evidence available that it is actually effective in reducing alcohol-related harm, while there is evidence for an across the board increase in the minimum purchase age.

Research has shown that the effectiveness of a minimum purchase age depends on the intensity of enforcement. Given this, ALAC supports the requirement for mandatory age verification for those who look 25 years or younger when purchasing alcohol and notes that a nationally recognised and tamper-proof system of age identification would greatly assist this measure.

ALAC does not support the introduction of a minimum legal drinking age due to a number of problems. These include the difficulty in determining where to set a legal drinking age and the complex relationships between the early onset of drinking and associated problems later in life. ALAC intends to develop information and resources for both parents/guardians and young people on these issues. Further, as *Alcohol in our lives* points out, there are other potential problems with a minimum drinking age, such as the risk of criminalising youth, creating a disincentive for them to seek help, and potential difficulties in enforcing the law in private places.

As well as the options for legislative change suggested by the Law Commission, there are other interventions, both regulatory and non-regulatory that can help to reduce the harm from youth drinking. These are set out in Appendix 3. Overall, the research indicates that strategic measures, such as alcohol taxation, that are directed at the general population can have a significant impact on the problems associated with youth drinking while no one measure, such as raising the minimum purchase age, will be successful. Instead what is needed is an integrated, self-reinforcing set of interventions that target youth drinking within the context of wider interventions in the general social and physical drinking environment.

Further, adults, by their behaviour, continually reinforce a drinking culture in New Zealand that supports intoxication and binge drinking. This role modeling, and the omnipresence of alcohol in the social and physical environment, reinforces these drinking norms for New Zealand youth and gives the message that young people drinking to excess is common and socially endorsed. Ultimately, the adult drinking culture will have to change before adults can expect more reasonable behaviour from young drinkers.

In summary, youth binge drinking is a characteristic of New Zealand's alcohol environment. We know that about one-third of youth drinkers between 12 and 24 years of age binge drink with negative impacts on themselves and society, such as alcohol-related offending, injuries and motor vehicle accidents. As our young people will define New Zealand's future drinking culture, they need the support and assistance of adults, whānau, communities and importantly our legislative system. Therefore ALAC:

1. maintains its historic position that the minimum purchase age should be 20 years
2. proposes that it should be an offence for all persons to supply alcohol to a young person under 18 without the consent of a parent or guardian of the young person
3. supports making it a legal requirement for any person supplying alcohol to a young person under 18 to supervise the consumption of the alcohol
4. supports the requirement that age verification for the sale of alcohol be made mandatory and notes that a nationally recognised and tamper-proof system of age identification would greatly assist this measure.

ROAD TRAUMA

Driver alcohol and drug impairment is inflicting a very high and concerning cost on our society. Drinking alcohol, even in small amounts, impairs our actions and judgement. It is important to note that any initiatives to reduce alcohol-related road crashes will also reduce the incidence of other alcohol harm such as violence, crime and poor health.

As we stated in our recent submission to the Ministry of Transport's proposed Safer Journeys road safety strategy to 2020, ALAC strongly believes that the legal blood alcohol content (BAC) limit for driving in New Zealand should be lowered from 80mg/100ml for adult drivers down to 50mg/100ml, and the under-20 year old BAC lowered to zero for all under-20 year olds, regardless of licence status.

Drinking alcohol increases a person's chances of being involved in a car crash. New Zealand's legal BAC limits are high by international standards, and the World Health Organisation recommends a legal BAC limit of 50mg/100ml for adults and a zero BAC for young people. A legal BAC of 80mg/100ml sends a message that it is okay to drink and drive. However, we know that the risk of harm occurring, particularly when driving, starts well before the 80mg/100ml threshold. There is clear evidence of an increase in risk as blood alcohol levels increase, and the effect is much more pronounced in young drivers.

So while those drink drivers with very high BAC levels (in excess of 80mg/100ml) do create the most harm, having a BAC of between 50mg/100ml and 80mg/100ml also carries a high risk of harm when compared with someone who has a zero BAC. Not only will a lower legal BAC reduce the number of alcohol-related road crashes occurring for drivers with a BAC of between 50mg and 80mg/100ml, research has consistently shown that it will reduce road crashes for drivers at the full range of BAC levels. There have been significant decreases in the number of fatal collisions, serious collisions and single-vehicle collisions in those overseas countries with a 50mg/100ml BAC limit compared with the number of these types of collisions occurring when the BAC limit in these jurisdictions was 80mg/100ml as it is currently in New Zealand.

Not only will a lowered legal BAC limit reduce alcohol-related road crashes, but it will also send a message about the other harm associated with excessive drinking. It is likely to reduce the incidence of heavy drinking and to moderate our drinking patterns. There is strong overseas evidence that having zero tolerance laws among 18 to 20 year olds reduces heavy per occasion consumption (five or more drinks at one sitting) by males by about 13%.

ALAC also supports introducing infringement notices, rather than prosecution in court, for offences between the old BAC levels and the proposed new ones.

In addition, ALAC supports a move towards mandatory alcohol interlocks for drink driving recidivists, as these offenders clearly need treatment and support to overcome their drinking issues. ALAC would also support mandatory alcohol interlocks as an option for first-time offenders, who are also likely to be recidivists who have not been apprehended before, but equally require support to overcome their drinking issues. We note that other jurisdictions (in Australia, the United States, Canada and Europe) have successfully implemented interlock programmes, and that these have proven to be effective in preventing drink driving, particularly when provided in association with treatment and education.

Further information supporting our position on road trauma can be found in Appendix 4. In addition, we support the option in *Alcohol in our lives* to introduce a legal BAC for those in charge of pleasure craft such as yachts, as this would bring the alcohol laws into line with those applied to road users.

In summary, driver alcohol impairment is inflicting a very high cost on our society, and any measures to address this will also reduce the incidence of other alcohol harm such as violence, crime and poor health.

Therefore ALAC:

1. strongly believes that the legal BAC for driving in New Zealand should be lowered from 80mg/100ml for adult drivers down to 50mg/100ml, and the under-20 year old BAC lowered to zero for all under-20 year olds, regardless of licence status
2. supports introducing infringement notices for offences between the old BAC levels and the proposed new ones
3. supports a move towards mandatory alcohol interlocks for drink driving recidivists, as these offenders clearly need treatment and support to overcome their drinking issues. ALAC would also support mandatory alcohol interlocks as an option for first-time offenders, who are also likely to be recidivists who have not been apprehended before, but equally require support to overcome their drinking issues
4. supports the option to introduce a legal BAC for those in charge of pleasure craft such as yachts.

TREATMENT

Currently, treatment for people with alcohol issues is focused at the severe end of alcohol dependence, and often with very stringent criteria and barriers to access treatment. There is much potential for alcohol problems to be addressed in primary care and other non-specialist settings. However, very few early intervention options are available, in spite of evidence that shows:

- early detection and brief interventions are cost effective
- brief interventions in primary health, if undertaken on a large enough scale, will reduce alcohol-related harm across the population
- individuals tend to moderate their drinking when given brief advice by a health professional in primary care
- early detection and brief interventions can improve health and social outcomes for individual hazardous drinkers and their whānau
- intervening early is recognised best practice for reducing harm and improving long-term outcomes.

There needs to be effective, accessible treatment across the spectrum of care (primary health to specialist intensive alcohol and drug services). Early intervention in primary health is an identified gap in the current provision of treatment. It now needs to be prioritised as an effective strategy for reducing alcohol-related harm and for maximising cost effectiveness. In overseas jurisdictions, planning and funding are being directed towards increasing the participation of primary care organisations in addressing hazardous drinking.

We have identified the following issues:

- Not enough early intervention occurs in primary health care (although this is acknowledged as an important need in Te Kōkiri - Mental Health and Addiction Plan 2006-15).
- There is a lack of capability in the alcohol and drug workforce to supply primary care interventions.
- The capacity of services to cope with the demand is being stretched. For example, the increased demand for methadone is taking up a lot of the workforce capacity.
- The exclusion criteria for access to treatment can be set unrealistically high.
- There is a lack of group work options including training in this area, despite group work having been proven effective and more cost effective than other options. Group work has a role as one of a range of effective interventions.
- There is limited family-inclusive practice (despite being identified as best practice in: Te Kōkiri, the 1998 Blueprint for Mental Health Services and the National Mental Health Standards, 1997).
- There is a disparity in funding available to various services. For instance, some services receive far more funding than others for the same service. The discrepancy of funding between District Health Board (DHB) services and Non-governmental organisations (NGOs) has huge implications for the NGO workforce/sector.
- Opportunities are needed for a more integrated response to mental health including proactive simple brief interventions (given the prevalence of co-morbidity).

- There is a general lack of well-validated age and culturally appropriate services.

There are clear gaps in the delivery of brief interventions in primary health settings and integrating alcohol treatments into general practice. One of the issues in the sector is that alcohol and other drug (AOD) service funding comes through several different channels. Health AOD funding comes primarily through DHBs via the mental health funding stream. The Department of Corrections also puts a significant amount of money into AOD funding, particularly in Drug Treatment Units. Other funding comes sporadically from the Ministry of Health for various targeted treatment services. Added to this is the fact that the Ministry of Justice (Courts) and the Police have also funded AOD police and court referral services.

We believe the main problem is that there is no oversight of AOD funding and service provision, and no one organisation that is able to maintain a big picture view. Consequently, the Ministry of Health, DHBs, the Department of Corrections, and the Ministry of Justice all make decisions about (and fund) treatment services individually and independently of each other.

In talking with stakeholders, it is clear there are issues surrounding the way new treatment services are being planned. For instance, when new services are planned for in the criminal justice system, it is important to also plan for after-care in the community, taking into account current capacity.

This was highlighted clearly during the recent Cutting Edge conference, where there was a strong call from the treatment sector for high-level coordination of all AOD treatment service provision and an increase in treatment services funded from an increase in excise tax on alcohol.

We note that the Law Commission is “concerned at the lack of policies, facilities and programmes around the country in relation to assessment and treatment for people with alcohol problems”. *Alcohol in our lives* proposes a number of options for consultation purposes, including considering greater use of brief early interventions and addressing funding and service provision issues.

One particular proposal is to “investigate the range of alcohol-specific treatment interventions provided, with a view to determining gap areas (for example, alcohol detoxification and nationally consistent drink driving group interventions) with the potential to increase funding via the alcohol levy managed through the Alcohol Advisory Council of New Zealand”.

Although we believe ALAC is not the appropriate agency to be the recipient of increased funding for treatment services via the alcohol levy as suggested by the Law Commission, ALAC is keen to play a more active role in monitoring and providing advice on alcohol and other drug service provision and funding. We have discussed this issue with the Mental Health Commission, and we believe that the development of a comprehensive plan for alcohol treatment is needed. ALAC therefore proposes to support the development of a comprehensive alcohol treatment plan, to be led by the Mental Health Commission and supported by ALAC, that will be based on a number of high-priority and best practice principles including the following:

- Brief early interventions and alcohol treatments should be provided in primary health settings.
- Family-inclusive practice and well-validated age and culturally appropriate services need to be increased.

ALAC is very supportive of the proposal for alcohol and other drug assessment and treatment to be taken into account during sentencing in cases where alcohol and other drugs may have contributed to the offending. This option has the potential to reduce recidivism.

ALAC's response to the options proposed for consultation purposes in *Alcohol in our lives* is attached in Appendix 5.

In summary, there needs to be effective, accessible treatment across the spectrum of care (primary health to specialist intensive alcohol and drug services). There are clear gaps in the delivery of brief interventions in primary health settings and integrating alcohol treatments into general practice. Therefore:

1. although ALAC should not be the recipient of increased funding for treatment services via the alcohol levy as suggested by the Law Commission, ALAC is keen to play a more active role in monitoring and providing advice on alcohol and other drug service provision and funding
2. ALAC supports the development of a comprehensive plan for alcohol treatment, to be led by the Mental Health Commission and supported by ALAC, that will be based on a number of high-priority and best practice principles including that:
 - a. brief early interventions and alcohol treatments should be provided in primary health settings
 - b. family-inclusive practice and well-validated age and culturally appropriate services need to be increased
3. ALAC supports the proposal that the need for alcohol and other drug assessment and treatment should be taken into account during sentencing in cases where alcohol and other drugs may have contributed to the offending.

SUPPORTING MANAGEMENT STRUCTURES AND TOOLS

In addition to the key intervention areas discussed above, it is also important to improve the supporting management structures and tools available to those working in the alcohol sector to reduce alcohol harm. A number of issues relating to these structures and tools are raised in *Alcohol in our lives*.

ALAC notes that the Law Commission is of the firm view that the whole Sale of Liquor Act “should be redrafted from the beginning and not be made the subject of a further amending Act. That is the best way to secure a clear and coherent statute and to minimise complexity”. ALAC believes that the primary object of any new legislation or an amended Sale of Liquor Act should be the reduction of alcohol-related harm. A list of specific objectives should be included that will provide guidance to agencies and authorities working in the sector, such as local authorities when developing local alcohol policies. For example, the primary object could be:

“to establish a system for the sale, supply and consumption of liquor to reduce alcohol-related harm, and in particular to:

- *secure public safety and prevent crime and disorder*
- *protect and improve public health*
- *protect families and children from harm, and*
- *ensure, as far as practicable, that the supply of liquor contributes to and does not detract from the amenity of community life.”*

ALAC supports, in principle, enhancing the licensing and enforcement system, including: empowering the LLA and District Licensing Agencies (DLAs) to be more proactive in enforcing the law and furthering the object of the Act; and, providing more flexibility to deal with new situations as they arise.

ALAC believes the licensing system and its agencies should:

- enable the proactive enforcement of the law and effective functioning of licensing bodies
- further the object of the Act
- provide flexibility to respond to changing needs and new technologies (such as internet sales)
- ensure that licences, once granted, can be revoked where fundamental breaches are shown
- ensure community say in licensing decisions.

ALAC supports a change to the licence fee structure to reflect the costs posed to the community.

Enforcement tools, including those that relate to alcohol in public places, should seek to balance harm reduction with the rights and freedoms of responsible New Zealanders, and be considered only if they add real value and benefits that are not available through other means. ALAC supports the continuation of the status quo, where liquor bans are dealt with by way of local authority bylaws. We acknowledge there are issues with the current approach, as there are numerous liquor bans in place across the country. However, ALAC supports assisting local authorities to use liquor bans as part of a wider and more comprehensive approach to addressing alcohol harm in their communities. We do not agree with there being no restrictions

on drinking in a public place. However, ALAC does not support the creation of an offence of drinking in a public place, as this would unfairly restrict the freedoms of responsible New Zealanders. ALAC considers that reintroducing an offence of being drunk in a public place would be counter-productive. There is a lack of evidence that an offence for being drunk in a public place would be effective in reducing public drunkenness. Such an offence would also increase the burden on both the police and the courts, and serve only to criminally convict people who may really need assistance, support and appropriate treatment.

The tools and regulatory powers available to restrict or prohibit harmful alcohol products are also considered in *Alcohol in our lives*. ALAC would be concerned if there was to be any move to enable supermarkets and grocery stores to sell spirits or spirit-based drinks. Enabling beer and wine to be sold in these stores has resulted in heavily discounted alcohol as off-licences compete with each other for customers. Further liberalisation to enable supermarkets and grocery stores to sell spirits and spirit-based drinks such as ready-to-drinks (RTDs), would be extremely undesirable, leading to cheaper products due to heavy discounting. This is likely to lead to greater alcohol related harm, particularly for young people because of the particularly heavy competition in the RTD market. Therefore ALAC supports no change to the types of products available at off-licence premises.

ALAC supports the provision of a regulatory power to prohibit the sale of undesirable liquor products or products of specified alcohol content or size based on expert recommendations to the Minister, and that this power may potentially be used to review the evidence with respect to ready-to-drinks.

All alcohol products can be harmful if they are misused. Products that are arguably more potentially harmful than others include those that are designed or marketed for quick consumption (for example, shots or slammers), those with high alcohol content plus a sweet taste (for example, some RTDs), and those with very high alcohol content, such as Absinthe.

Currently, the Food Standards Australia New Zealand (FSANZ) framework is the only mechanism for regulating alcohol product content and labelling. FSANZ has strict procedures and scientific evidence-based formulae. For FSANZ to take action, risk must be proven to a high degree of certainty and the benefits of intervention must be proven to outweigh the cost to industry. There is no scope to take a precautionary approach where the evidence is unclear.

In the event that a high-risk product with an unusually high alcohol content was introduced to the New Zealand market, it would be useful to have a regulatory mechanism available to enable it to be banned, enabling potentially harmful factors in new alcohol product developments to be addressed in a timely and precautionary way.

Such a regulatory power, to be invoked only if needed and based on expert recommendations, is preferable to expecting DLAs to determine which licensees and what types of licences should be able to sell different types of products. Rather than this being a regional issue, it is one more appropriately dealt with at a national level.

ALAC believes the labelling of alcohol content and standard drinks is a matter of consumer information as consumers have a right to know what they are buying. Standard measures and controls on pouring are

useful because consumers become familiar with what to expect and it makes planning their drinking easier. ALAC applied to FSANZ for mandatory labelling of health advice recommending that pregnant women not consume alcohol. While acknowledging the lack of evidence for alcohol advisory labels, there is clear evidence that most pregnant women abstain or cut down their alcohol if they believe that alcohol consumption risks the health of their unborn child. Mandatory health advisory labels regarding pregnancy would add a credible voice which would strengthen cultural norms around the use of alcohol during pregnancy.

We note that the Law Commission does not propose any specific option or intervention for RTDs. ALAC's policy on RTD products is that the risks of RTDs are largely the same as for any other alcohol product, but that there are aspects of them that present particular challenges. These include, in brief, that:

- sweet taste, especially when combined with high alcohol contents (8-12%), makes it easy for young people to drink alcohol and over-indulge
- alcoholic energy drinks increase the risk of drink driving
- brightly-coloured RTDs, packaging and promotion can be particularly appealing to children and adolescents.

ALAC supports measures to limit the alcohol content of RTDs and the size of single-serve containers, and we would urge the Law Commission to further consider these options.

Further information in support of these issues and responding to other specific options proposed in *Alcohol in our lives* can be found in Appendix 6.

In summary, a number of issues have been raised in *Alcohol in our lives* that relate to the supporting management structures and tools for those working to reduce alcohol harm. These include the title and object of the sale of liquor legislation, enhancing the licensing and enforcement system and the powers of functions of related agencies, the regulation of products and contents, and offences and penalties. We need to provide effective and efficient structures, systems and tools to support the sector working to reduce alcohol harm. And we need to balance harm reduction structures and tools with the rights and freedoms of responsible New Zealanders. Therefore ALAC:

1. proposes that the primary object of any new legislation or an amended Sale of Liquor Act be to reduce alcohol-related harm
2. supports, in principle, enhancing the licensing and enforcement system, including:
 - a. empowering the Liquor Licensing Authority and District Licensing Agencies to be more proactive in enforcing the law and furthering the object of the Act, and
 - b. providing more flexibility to deal with new situations as they arise
3. supports a change to the licence fee structure to reflect the costs imposed by the relevant licence

4. supports the continuation of the status quo where liquor bans are dealt with by way of local authority bylaws
5. does not agree with the creation of an offence of drinking in a public place
6. does not agree with the reintroduction of the offence of being drunk in a public place
7. supports the status quo of no change to the types of products available at off-licence premises
8. supports the provision of a regulatory power to prohibit the sale of undesirable liquor products or products of specified alcohol content or size based on expert recommendations to the Minister, and that this power may potentially be used to review the evidence with respect to ready-to-drinks
9. supports measures to limit the alcohol content of ready-to-drinks and the size of single-serve containers
10. supports the mandatory labelling of health advice recommending that pregnant women not consume alcohol.

EFFECTIVE PACKAGING OF MEASURES

This submission has discussed a significant number of measures that ALAC believes will contribute to reducing alcohol-related harm. However, there are a number of initiatives that ALAC considers critical to challenging New Zealand's drinking culture. Such measures need to be developed as an integrated package that will provide a balance across the areas of supply control, demand reduction and problem limitation. ALAC considers that the following measures, proposed in this submission and shown by research to be effective in reducing alcohol-related harm, should be a priority:

- a nationwide set of trading hours, restricting both off- and on-licence hours
- investigation of how best to increase the retail price of alcohol
- initiation of a whole of government process, similar to 'Smokefree', to deal with the issue of alcohol promotion
- lowering the legal blood alcohol content limit for drinking to 50mg/100ml and the under 20 year old limit to zero, regardless of licence status
- minimum purchase age of 20 years
- proactive enforcement of the law, including ensuring that licences can be revoked where fundamental breaches are shown
- brief interventions in primary health for hazardous drinkers¹
- community say in licensing.

Strategic measures, such as increasing price, that are directed at the general population can have significant impacts on specific sectoral problems such as youth drinking. Further, alcohol policies rarely operate independently or in isolation from other measures and complementary system strategies that seek to restructure the total drinking environment are more likely to be effective than single strategies.²

A package of complementary measures will inevitably contain those that have specific inter-dependencies that mean that they will not be as effective at reducing alcohol-related harm if they are not introduced together. Two examples of these inter-dependent measures are as follows:

- the importance of enforcement to reinforce other measures such as a minimum purchase age and the ability to revoke a licence where fundamental breaches are shown
- the raising of the minimum purchase age to 20 years combined with the parental consent and supervision options will provide a strong response to the 'trickle down' effect described in this paper. In the event that the purchase age remains the same, the parental consent and supervision options become more important in reducing the numbers of young people 18 years and over who supply to younger peers, particularly those 15 to 17 years of age.

¹ See Anderson, P et al (2009) 'Effectiveness and cost effectiveness of policies and programmes to reduce the harm caused by alcohol', *Lancet*, vol.373 p. 2234–2246 and Alcohol and Public Policy Group (2003) 'Alcohol: no ordinary commodity. A summary of the book', *Addiction*, vol. 98, p.1343–1350

² Alcohol and Public Policy Group, *ibid*, p.1349 – 1350

In summary, ALAC suggests that the eventual Law Commission report to government should set out an integrated package of effective complementary measures as the recommendations will inevitably set the framework for the fundamental re-write of the Sale of Liquor Act. The combination of new legislation, with the primary object of reducing alcohol-related harm, with the critical measures discussed above will provide a strong platform to challenge and over time change New Zealand's drinking culture for the better.

ALAC POLICY POSITIONS

ALAC has agreed the following policy positions in response to options proposed by the Law Commission in *Alcohol in our lives*:

1. ALAC proposes that the primary object of any new legislation or an amended Sale of Liquor Act be to reduce alcohol-related harm. A list of specific objectives should be included that will provide guidance to agencies and authorities working in the sector, such as local authorities when developing local alcohol policies. For example, the primary object could be:
“to establish a system for the sale, supply and consumption of liquor for the benefit of the community and to reduce alcohol-related harm, and in particular to:
 - (a) secure public safety and prevent crime and disorder*
 - (b) protect and improve public health*
 - (c) protect families and children from harm, and*
 - (d) ensure as far as practicable that the supply of liquor contributes to and does not detract from the amenity of community life.”*
2. ALAC agrees that local alcohol policies should be consistent with the object of the new Act.
3. ALAC supports introducing a nationwide set of trading hours, restricting off-licence hours to 8am-10pm, and on-licences until 2am.
4. ALAC proposes allowing for community say and local variation (extensions or shortening) of the nationwide on-licence trading hours via a well-consulted local alcohol policy, and where licence applicants can demonstrate to the licensing decision-maker that they have a plan to manage the risks of extended trading hours including complying with conditions specified in local alcohol policies.
5. ALAC proposes allowing for community say and local shortening of the nationwide off-licence trading hours via a well-consulted local alcohol policy, in order to protect certain community areas, for example around schools.
6. ALAC supports no change to the currently prohibited days of sale, because ALAC does not have a position on days of cultural or religious significance, and notes that to reduce these days would increase alcohol availability and potentially also increase alcohol harm.
7. ALAC strongly supports allowing the Liquor Licensing Authority and District Licensing Agencies to refuse a licence on wider grounds than permitted at present, including: likely detrimental social impact; inconsistency with the object of the Act; likely lessening of the amenity, quiet or good order of the locality; and inconsistency with the relevant local alcohol plan.

8. ALAC supports the ability for both national and local licensing bodies to impose any reasonable condition on a licence, as long as effective guidance is provided on what a “reasonable condition” should be (e.g. mandatory security staff at certain times).
9. ALAC agrees with the Law Commission’s conclusion that there are issues with the current Sale of Liquor Act provisions as they relate to the types of premises that may be granted an off-licence, and that it is time to redesign the criteria so that they will work in today’s retail and social environment. New provisions for the types of off-licence premises should take an approach which aims to:
 - (a) ensure that alcohol is not being sold in premises that are not well equipped to manage risk and comply with the law
 - (b) reduce the risk that further proliferation of alcohol outlets will occur in neighbourhoods with large numbers of people who are already disproportionately impacted by alcohol-related harm
 - (c) challenge the perception that alcohol is an ordinary commodity
 - (d) ensure that, at the very least, no additional types of premises (additional to those eligible under the existing law) are able to get an off-licence.
10. ALAC does not support the Law Commission’s preference to remove restrictions on the type of premises able to apply for off-licences (with the exception of service stations), because the proposed widened grounds for refusing licences will not be a sufficient safety net to control alcohol availability and the proliferation of alcohol outlets.
11. ALAC supports the retention of the current simple four-licence type licensing system.
12. ALAC supports removing all licensing exemptions for chartered clubs, police canteens, defence establishments, fire-fighters’ facilities and Parliament.
13. ALAC maintains its historic position that the minimum purchase age be 20 years.
14. ALAC proposes that it should be an offence for all persons to supply alcohol to a young person under 18 without the consent of a parent or guardian of the young person.
15. ALAC supports making it a legal requirement for any person supplying alcohol to a young person under 18 to supervise the consumption of the alcohol.
16. ALAC supports the requirement that age verification for the sale of alcohol be made mandatory and notes that a nationally recognised and tamper-proof system of age identification would greatly assist this measure.
17. ALAC strongly believes that the legal BAC for driving in New Zealand should be lowered from 80mg/100ml for adult drivers down to 50mg/100ml, and the under-20 year old BAC lowered to zero for all under-20 year olds, regardless of licence status.

18. ALAC supports introducing infringement penalties for offences between the old BAC levels and the proposed new ones.
19. ALAC supports a move towards mandatory alcohol interlocks for drink driving recidivists, as these offenders clearly need treatment and support to overcome their drinking issues. ALAC would also support mandatory alcohol interlocks as an option for first-time offenders, who are also likely to be recidivists who have not been apprehended before, but equally require support to overcome their drinking issues.
20. ALAC supports the option to introduce a legal BAC for those in charge of pleasure craft such as yachts.
21. ALAC agrees with the Law Commission's overall conclusion that there is a case to increase the retail price of alcohol to reduce the incidence of heavy sessional drinking.
22. ALAC agrees that the excise structure needs to be reviewed to ensure the tax burden is spread so that the more alcohol purchased, the more tax payable.
23. ALAC supports the removal of the excise tax on low-alcohol products.
24. ALAC supports a minimum retail price policy in theory as an alternative to increasing the excise tax rates, but recommends that further research and policy work are needed to determine what the magnitude and nature of the impact would be in New Zealand relative to any increase in excise tax.
25. ALAC recommends that to enable further work to happen, the lack of access to sales data (price and volume) for the purposes of policy analysis needs to be addressed.
26. ALAC agrees that there may be a case to increase excise tax, but recommends that any decision about this should follow policy work to compare it with the minimum price option.
27. ALAC proposes a legislative requirement that off-licence alcohol marketing and retailing practices be socially responsible, similar in concept and principle to that which already exists for on-licence marketing and retail practices. This could be supported by Liquor Licensing Authority guidelines and a code of practice.
28. ALAC agrees that the Liquor Licensing Authority should be empowered to take into account past off-licence retail practice (including pricing and promotions behaviour) in licensing decisions and require liquor licensees to supply the necessary data.
29. ALAC supports the proposed prohibition of pricing practices or promotions that create an economic incentive for consumers to buy larger amounts than otherwise intended.

30. In addition to the legislative requirements regarding alcohol marketing and retailing practices, ALAC recommends steps be taken towards the creation of a voluntary code of good practice for off-licences, similar to the way in which on-licence price promotions are regulated.
31. ALAC proposes that measures should be taken to reduce the exposure to alcohol promotion of those under the minimum purchase age.
32. ALAC recommends that principles and codes for the promotion of alcohol should be enshrined in law, rather than voluntary.
33. ALAC proposes that a breach of the principles and/or codes should be considered a breach of licensing conditions.
34. ALAC recommends as a priority that a whole of government process, similar to 'Smokefree', be initiated to deal with the issue of alcohol promotion.
35. ALAC supports, in principle, enhancing the licensing and enforcement system, including:
 - (a) empowering the Liquor Licensing Authority and District Licensing Agencies to be more proactive in enforcing the law and furthering the object of the Act; and,
 - (b) providing more flexibility to deal with new situations as they arise.
36. ALAC supports a change to the licence fee structure to reflect the costs imposed by the relevant licence.
37. Although ALAC should not be the recipient of increased funding for treatment services via the alcohol levy as suggested by the Law Commission, ALAC is keen to play a more active role in monitoring and providing advice on alcohol and other drug service provision and funding.
38. ALAC supports the development of a comprehensive plan for alcohol treatment, to be led by the Mental Health Commission and supported by ALAC, that will be based on a number of high-priority and best practice principles including:
 - (a) Brief early interventions and alcohol treatments should be provided in primary health settings
 - (b) Family-inclusive practice and well-validated age and culturally appropriate services need to be increased.
39. ALAC supports the proposal that the need for alcohol and other drug assessment and treatment should be taken into account during sentencing in cases where alcohol and other drugs may have contributed to the offending.
40. ALAC supports the continuation of the status quo where liquor bans are dealt with by way of local authority bylaws.

41. ALAC does not agree with the creation of an offence of drinking in a public place.
42. ALAC does not agree with the reintroduction of the offence of being drunk in a public place.
43. ALAC supports the status quo of no change to the types of products available at off-licence premises.
44. ALAC supports the provision of a regulatory power to prohibit the sale of undesirable liquor products or products of specified alcohol content or size based on expert recommendations to the Minister, and that this power may potentially be used to review the evidence with respect to ready-to-drinks.
45. ALAC supports measures to limit the alcohol content of ready-to-drinks and the size of single-serve containers.
46. ALAC supports the mandatory labeling of health advice recommending that pregnant women not consume alcohol.
47. ALAC recommends that the new Act require the Liquor Licensing Authority to take local alcohol policies into account in decision-making, rather than making the policy supreme.
48. ALAC agrees that local authorities should have the final say when it comes to approving their alcohol policies, rather than the Liquor Licensing Authority.
49. ALAC supports local alcohol policies being mandatory to ensure all communities are able to benefit.
50. ALAC agrees that all local authorities should be required to consult with communities by way of the special consultative procedure and that it will be important to ensure local authorities are resourced to do this through the proposed revised licence fee structure.

APPENDIX 1: AVAILABILITY AND ACCESS

ALAC has been concerned for some time about the proliferation of alcohol outlets, the trend toward 24 hour liquor licensing, and increased affordability of alcohol. All of these measures have increased the overall availability and accessibility of alcohol and associated alcohol-related harm. Favourable reforms in all these areas will help to reduce availability and accessibility of alcohol overall and ultimately alcohol-related harm.

THE ISSUES

The Sale of Liquor Act and local alcohol policies are the two key instruments for controlling the availability and accessibility of alcohol at this time. Our key concerns with the current situation are that:

- there are too many alcohol outlets concentrated in particular areas and this leads to an increased risk of alcohol-related harm
- opening hours are getting longer, which provides for greater availability of alcohol and is linked to crime and injuries
- the greater availability encourages people to drink more than they may have originally intended, and reinforces the New Zealand drinking culture that assumes that the consumption and availability of, and access to, alcohol at any time of the day or night are necessary for our enjoyment of social occasions - this drinking culture is causing a range of harm to New Zealanders including health issues, injuries, crime and violence
- alcohol is being sold as if it's a convenience item, next to milk and other household products, and is being treated as an ordinary commodity, despite what we know about the harm it can cause
- local councils struggle to keep community alcohol issues under control with the existing tools available to them
- licences are too easy to get under the current regime as the grounds for objecting to applications are too narrow and some sectors don't even need a licence to sell alcohol
- the proliferation of outlets impacts on communities, some more than others, yet it is difficult for communities to influence the granting of licences in any meaningful way
- licences are very difficult to lose even when a licensee has been convicted of fundamental breaches of the licence, and it is a costly process to monitor and enforce licences
- varying closing times between areas makes it difficult to mobilise resources to where they are most needed to prevent and manage harm effectively
- the varying closing times of the different local authorities leads to the transferral of harm to those areas with longer hours, and/or to drink driving (because often this occurs at times when there is no public transport)
- when off-licences are open later than on-licences, drinkers are encouraged to keep drinking in the streets or at home after the bars close.

While ALAC believes there is clearly a problem with New Zealand's current opening hours for licensed premises, it is less clear that the days on which alcohol is available for purchase (every day except for the few prohibited days) contributes to alcohol harm to an extent that may acceptably justify limiting the right of

New Zealanders to purchase and consume alcohol in moderation. The evidence from the Police National Alcohol Assessment provides mixed indications as to whether the currently prohibited days reduce alcohol harm. The currently prohibited days are prohibited in law for reasons of cultural or religious significance, something which ALAC is not in a position to comment on. Arguably, however, the trend towards 24 hour licensing has gone hand in hand with the greater availability of alcohol on Sundays, and may have also contributed to and reinforced New Zealand's drinking culture.

THE EVIDENCE ON AVAILABILITY AND HARM

Common sense suggests that greater availability of alcohol leads to cheaper prices and longer opening hours and there is some recent evidence to suggest that this is in fact the case in areas where there is a high density of off-licence premises. Initial findings from a study ALAC commissioned to look at the relationship between outlet density and alcohol harm in Manukau found that:

- on average the price is lowest in areas where there is a higher density of off-licence premises³
- opening hours are longest in these areas⁴
- closing times are later in these areas
- off-licence outlets are located in more densely populated areas and in areas of high deprivation⁵.

In addition, higher density and clustering of alcohol outlets adds to the visibility of alcohol in the community and in this respect can be seen as a 'live' advertisement for alcohol. We know that there is evidence to suggest that there is some association between the level of exposure to alcohol advertising and the level and patterns of alcohol consumption.⁶

At a general level, research shows that dramatic changes in the number of outlets can have a significant influence on consumption, but the overall effects of marginal changes (where there is already a substantial number of outlets) are less clear.⁷ Despite this, there is a developing body of national and international research that has found a positive association between liquor outlet density and drinking and related problems. For example:

- A New Zealand-wide analysis of neighbourhood deprivation and access to alcohol outlets was recently conducted by the University of Otago. The results showed that people living in deprived areas of New Zealand live closer to pubs, bars, clubs and off-licences than those living in

³ There is evidence to suggest that price has an impact on the sale of alcohol and that young people are particularly price sensitive

⁴ Longer opening hours increase the risk of people drinking more than they may have intended to, which in turn increases the risk of alcohol-related harm to themselves and others

⁵ Cameron, M et al (2009) *Impact of liquor outlets research, report no. 3*, Hamilton: Population Studies Centre, University of Waikato

⁶ Steering Group for the Review of the Regulation of Alcohol Advertising (2007) *Report of the Steering Group for the Review of the Regulation of Alcohol Advertising*, Wellington: Ministry of Health

⁷ Babor, T et al (2003) *Alcohol no ordinary commodity. Research and public policy*, Oxford: Oxford University Press

wealthier areas. This association is the strongest for bars in urban areas. Conversely people in wealthier rural areas live closer to licensed restaurants than those in more deprived rural areas⁸

- A study in New South Wales found that those people living close to liquor outlets and also in areas with high alcohol outlet density reported greater problems from drunkenness and property damage⁹
- An Australian review of evidence on the prevention of substance use, risk and harm noted that outlet density is highly predictive of alcohol-related harm.¹⁰
- A 2008 Australian study found that an increase in the number of liquor outlets (on and off-licence) is associated with an increase in alcohol-related violence and assault in the surrounding area¹¹
- A New Zealand study of students at six university campuses found positive associations between liquor outlet density (particularly off-licence outlets) and individual drinking and related problems. These associations remained after controlling for other variables such as hazardous pre-university drinking levels¹²
- A study of drinkers aged 12-17 years found that outlet density was among the predictors associated with quantities consumed, as was neighbourhood deprivation.¹³

Although overall consumption may not have risen in conjunction with increased outlet density, clustering of alcohol outlets is likely to attract negative drinking behaviours associated with alcohol-related harm. The research outlined above supports this conclusion.

Recent international studies have found direct evidence of an overall increase in alcohol harm with longer hours of sale. It is generally accepted that restrictions on trading hours will affect alcohol availability and harm. In 2009, Stockwell and Chikritzhs¹⁴ published a systematic review of studies published in English since 1965 which sought to evaluate the public health and safety impacts of changes to liquor trading hours for on-premise consumption. The overall conclusion was that the balance of reliable evidence from the available international literature suggests that extended late-night trading hours led to increased consumption and related harm.

⁸ Hay, G et al (2009) 'Neighbourhood deprivation and access to alcohol outlets: a national study', *Health & Place*, vol.15, p.1086-1093

⁹ Donnelly, N et al (2006) 'Liquor outlet concentrations and alcohol-related neighbourhood problems', *Alcohol Studies Bulletin*, no.8, p.1-16

¹⁰ Loxley, W et al (2004). *The prevention of substance use, risk and harm in Australia: a review of the evidence: monograph*, Canberra: Dept of Health and Ageing

¹¹ Chikritzhs, T et al (2007) *Predicting alcohol-related harms from licensed outlet density: a feasibility study*, Hobart: National Drug Law Enforcement Research Fund

¹² Kypri, K et al (2008) 'Alcohol outlet density and university student drinking: a national study', *Addiction*, vol.103, no.7, p.1131-1138

¹³ Huckle, T (2008) 'Density of alcohol outlets and teenage drinking: living in an alcogenic environment is associated with higher consumption in a metropolitan setting', *Addiction*, vol. 103, no.10, p.1614-1621

¹⁴ Stockwell, T and Chikritzhs, T (2009) 'Do relaxed trading hours for bars and clubs mean more relaxed drinking? A review of international research on the impacts of change to permitted hours of drinking', *Crime Prevention and Community Safety*, vol.11, no.3, p.153-170

In Australia, the National Drug Research Institute published in 2007 a comprehensive study on what works in relation to the many alcohol restrictions applied throughout Australia.¹⁵ “Restrictions on hours and days of sale for licensed premises” was amongst those interventions it listed as having “Strong evidence for positive outcomes including substantial and/or compelling concurring evidence of effectiveness in an Australian context”. They said that “Over several decades, Australian research has made a substantial contribution to the literature on the effect of trading hours for licensed premises. National research evidence for the relationship between consumption, harm and trading hours for licensed premises has consistently demonstrated that increased trading hours for licensed premises are associated with increased levels of consumption and/or harm.”

This same study concludes that “Most reviews which have assessed the impact of licensed premise trading hours on levels of alcohol consumption and related harm have concluded that the research evidence for ‘large’ changes (e.g. an additional day of trading) is more robust than for ‘smaller’ changes (e.g. one or two hours). Reviewers generally concede however that the lack of certainty in relation to the latter is largely a function of problematic study design and data limitations...and that, despite this, restrictions of trading hours remains one of the most readily available means of affecting alcohol availability.”

A paper presented at the Australasian Epidemiological Association Conference in August 2009 provided the results of new research on the effects of restricting pub closing times on night-time assaults in an Australian city. It found that the restriction in closing times appears to have produced a large reduction in assault incidence against a backdrop of a stable trend in the control area. Effective from 21 March 2008, the New South Wales Liquor Administration Board restricted closing times to 3am (subsequently relaxed to 3:30am) in the central business district of Newcastle, a city of 300,000 people. Previously many pubs closed at 5am or later. Police-recorded assaults in the area before and after the restriction were compared with those in Hamilton, a nearby area with a similar night-time economy. In Newcastle recorded assaults fell from 101 per quarter to 70 per quarter afterward. In Hamilton in the same period, assault rates were 25 and 28 per quarter respectively. The relative reduction attributable to the intervention was 38% and 43 assaults were prevented per quarter.

An Auckland City Police report¹⁶ on 24 hour licensing hours in Auckland city found that, despite levels of all recorded crime dropping in New Zealand (between 1998 and 2007 there was a decrease of 7.65%), an analysis of violent crime in Auckland Central shows that violence was occurring in 2007 with the same distribution across the 24 hour period as it had in 1998. This indicates that 24 hour licensing has not spread the workload of violent crime as expected.

The Auckland City Police report finds that “Auckland Central has a much higher proportion of its recorded violence occurring between 11pm and 5am than the rest of the country”. The report says that “Auckland City Police believe that the 24 hour licensing in the Central Business District is contributing to the rise in violence by attracting large numbers of young people into the city. With the easy availability of alcohol they become intoxicated in large numbers and suffer harm as a result”.

¹⁵ National Drug Research Institute (2007) *Restrictions on the sale and supply of alcohol: evidence and outcomes*, Perth: National Drug Research Institute, Curtin University of Technology

¹⁶ New Zealand Police (2008) *24 hour licensing hours in Auckland City* (A paper prepared by Senior Sergeant Ben Offner, Sergeant Bryce Law and Barry Hyde)

OPTIONS TO ADDRESS AVAILABILITY AND ACCESS: ALAC'S RESPONSE

Licence types and conditions

Four licence types

ALAC agrees with the Law Commission's preference to retain the four licence types (i.e. on, off, club and special licences). We note that it is a simple system that provides a commonsense and useful distinction between different scenarios involving alcohol sales.

Exemptions

ALAC supports removing **all** existing exemptions for obtaining a licence to sell alcohol.¹⁷ We are firmly of the opinion that all who serve or sell alcohol should have a licence to do so and we don't believe there is any good reason why an exception should apply to anyone who sells alcohol.

Conditions

ALAC supports the ability for **both** local and national licensing bodies to impose any reasonable condition on a licence. We recognise that the ability to apply conditions will be much easier given the proposed broader objective for the Act, and in this regard we also agree with the Law Commission's analysis that this wider discretion is likely to result in greater variances between licence conditions in different areas. We are not convinced however by the Commission's suggestion that consistency may best be facilitated by the ability to appeal a licence condition. We are aware that local authorities are currently put off trying to add conditions and restrictions to manage alcohol effectively in licences because of the legal costs involved if challenged. As such, we believe that it may be more effective to provide some guidance on what a reasonable condition would be. This would ensure a greater level of consistency at the front end of the decision-making process and is likely to provide more confidence to councils that the conditions they impose are less likely to be challenged.

Grounds for refusing licences

ALAC strongly supports widening the grounds for refusing licences and the additional grounds proposed in the Commission's issues paper, namely that:

- the overall social impact of the licence is likely to be detrimental to the wellbeing of the local or broader community, taking into account the proposed site and nature of the premises and the health and social characteristics of the local populations and the risks applicable
- granting a licence would be inconsistent with the object of the Act
- the amenity, quiet or good order of the locality would be lessened by the granting of the licence
- the licence would be inconsistent with the relevant local alcohol plan.

This is in line with our previous advice on the Hawkins Bill and the Sale and Supply of Liquor and Liquor Enforcement Bill (SOLLE Bill), where we strongly supported the need for social impacts to be taken into

¹⁷ Existing exemptions apply to chartered clubs, police canteens, defence establishments, fire-fighters' facilities and Parliament

account in the regulatory framework, while allowing for flexibility at a local level and for communities to have the ability to challenge a new licence application on grounds of location, proximity or density. We also believe that this provides an opportunity for licensing bodies to take into account the social impact on populations that experience a disproportionate amount of alcohol-related harm, such as young people, Māori and Pacific peoples.

However, as for the conditions for licences, we believe that the criteria should apply to DLAs as well.

Types of premises eligible to apply for an off-licence

The Law Commission has carefully articulated the issues with interpreting the types of premises which may be granted an off-licence. We agree with the Law Commission's conclusion that this law and its application over the years has resulted in unintended consequences and confusion, particularly in relation to the distinction between grocery stores and dairies. Clearly, it is indeed time to 'go back to the drawing board' and design criteria for off-licences that will work in today's retail and social environment.

We also agree with the Law Commission's conclusion that technical and arbitrary restrictions should be avoided if possible. However, we do not agree that removing restrictions on the type of premises able to apply for off-licences (with the sole exception suggested by the Law Commission of 'service stations') and relying on local alcohol policies and the broader grounds upon which to refuse licences will be sufficient for controlling alcohol availability. We also have grave concerns with the Commission's suggestion to "allow the licensing decision-maker to determine each application on a case-by-case basis using a proper assessment of the risk the particular premises in the particular location poses in each case".¹⁸

Such an approach would open up off-licences to a wide range of new potential off-licence applicants, including department stores, hardware stores, bargain shops (e.g. the \$2 shop, Coinsave), video hire outlets, and party hire stores, most of which we strongly opposed being eligible to sell alcohol in previous policy positions.¹⁹

A key concern we have about these types of premises selling alcohol is whether they would have the appropriate systems set up, qualified staff and training to comply with the law and manage any risk. In this respect we are similarly concerned about small grocery stores and dairies²⁰ (some of which are currently selling alcohol). These concerns are exacerbated when we consider that Parliament's intent was never to allow dairies to sell alcohol.²¹

¹⁸ Law Commission (2009) *Alcohol in our lives: an issues paper on the reform of New Zealand's liquor laws*, Wellington: Law Commission, p.137, para.9.133

¹⁹ For example, ALAC's 1999 Submission to the Justice and Law Reform Select Committee on the Sale of Liquor Amendment Bill (No. 2)

²⁰ In its 1999 submission to the Justice and Law Reform ALAC opposed these premises selling alcohol, along with others such as takeaway bars and any venue which attracted young people without accompanying adults

²¹ Section 36(3) (b) of the Sale of Liquor Act 1989 specifically excludes "any shop of kind commonly known as a dairy" from being granted an off-licence

Relying solely on the licensing decision-makers to conduct effective risk assessments on a case-by-case basis would be very challenging. In fact it may not be possible to associate risk of harm with an individual application. The risk of harm is more likely to be due to the cumulative effect of wide availability and the fact that alcohol could potentially be accessed from almost any type of premise. This could be particularly problematic for a dependent drinker who may be confronted with alcohol everywhere they go.

Being able to potentially access alcohol from anywhere will also have flow-on effects to alcohol advertising and is likely to strengthen the perception that alcohol is an 'ordinary commodity'. We also know, based on the initial findings of the Manukau study, that off-licence outlets are more often located in more densely populated areas and in areas of high deprivation.²² As a result, the cumulative effect is likely to be felt even more in deprived areas, where excessive numbers of off-licences are often accompanied by a loss of amenity and morale in the surrounding neighbourhood.

Further, licensing decision-makers may be put under pressure to accept applications without adequate capacity to design and monitor conditions. This is likely to produce wide inconsistencies and anomalies across the country, and, ultimately, ubiquitous availability of off-licence alcohol. We need to bear in mind that, in the absence of firm controls, alcohol as a product is vulnerable to being marketed as a side-line impulse buy (similar to chocolate bars and soft drinks).

In addition, removing all restrictions (with the exception of service stations) will also provide additional incentives for large retail chains to find ways of ensuring that they can sell alcohol. The commercial advantage for large retail chains of selling alcohol is quite obvious. The mere size of these stores enables them to bulk-buy and offer large discounts (similar to supermarkets) and potentially attract more customers through their doors.

While widening the grounds for refusing licences may reduce the risks identified above, we are not convinced that the additional grounds proposed will be sufficient, on their own, to control alcohol availability and its associated harm, particularly in areas that are socially deprived and/or have large numbers of the populations we know experience a disproportionate amount of alcohol-related harm (i.e. Māori, Pacific peoples, and young people). As such, we are of the view that while there is a need to take a principled approach to off-licence controls, it is still necessary to put some clear and practical limitations on the range of off-licence applications that may be considered.

We acknowledge that the current legal restrictions for deciding what premises are eligible to apply for an off-licence are not working. We also acknowledge that setting practical restrictions on eligibility is clearly a difficult task but one that we believe needs to be further considered given the evidence that links availability to harm, particularly at a sub-population level.

In light of this we believe that the most prudent course of action for setting practical restrictions, at this time, is to take an approach that, among other things, aims to:

²² Cameron, M et al (2009) op.cit

- ensure that alcohol is not being sold in premises that are not well equipped to manage risk and comply with the law (e.g. premises selling alcohol should have appropriate systems, qualified staff and training in place)
- reduce the risk that further proliferation of alcohol outlets will occur in neighbourhoods with large numbers of the populations we know experience a disproportionate amount of alcohol-related harm (i.e. Māori, Pacific peoples, and young people)
- challenge the perception that alcohol is an ordinary commodity
- ensure that, at the very least, no additional types of premises (additional to those already eligible under the existing law, and consistent with Parliament's original intent) are able to get an off-licence.

We are mindful that this approach does not provide a definitive conclusion on which premises we believe should be able to apply for an off-licence and which premises should not be eligible for an off-licence. However, any decision on this will need to be considered within the context of broader decisions made on other key measures that impact on the availability of, and accessibility to, alcohol (such as price, opening hours and types of products sold on off-licence premises).

Local alcohol policies

ALAC believes that alcohol policies adopted by councils will be far more meaningful and effective if there is a widening of the criteria for refusing licences, grounds for objections and types of allowable conditions. In the UK, local alcohol policies are crucial harm reduction mechanisms, and have goals linked to the objects of the governing legislation. We would also support a similar requirement in New Zealand where local alcohol policies are consistent with the object of the Act.

We see merit in requiring the LLA to take local alcohol policies into account in decision-making, rather than making the policy supreme. The LLA needs to retain its ability to make a final decision on a licence, taking into account all of the arguments on the case in question.

We do not support the Law Commission's suggestion that the LLA has the final say when it comes to approving local alcohol policies as this may undermine the LLA's role as the specialist authority. Rather, the LLA could instead play a potentially important role in providing guidelines and expectations that DLAs could look to when developing their local alcohol policies. The LLA could also provide an advisory function by commenting on draft alcohol policies at the request of individual DLAs. In this way, a feedback loop would be established to foster coherent development of central and local policies and case law. This system would prevent any risk of wide variations in local alcohol policies, provide more specificity as to what matters should be included within an alcohol policy and support a balanced approach between local and central leadership on licensing decisions.

Mandatory local alcohol policies

In ALAC's submission on the SOLLE Bill, we supported the provision for local alcohol policies²³ as a voluntary option for councils. We have now reconsidered this position within the context of the proposed law

²³ This paper uses the term 'local alcohol policy' as used in *Alcohol in our lives*. It has a similar meaning to the term 'local alcohol plan' used in the SOLLE Bill

reforms, our work with councils and our work on priority populations. On the basis of this, we have concluded that local alcohol policies should be mandatory and that all councils should be required to consult with communities by way of the special consultative procedure.

Two key changes proposed by the Law Commission that have had some bearing on this conclusion are:

1. the proposed wider criteria for refusing licences, which include reference to consistency with local alcohol policies. This gives additional weight and value to local alcohol policies in licensing decisions.
2. the availability of greater resources for the development of local alcohol policies through the proposed fee structure. Therefore those councils that are currently under-resourced should have access to more resources for developing their alcohol policy.

Further, the term 'local alcohol plan', used in the SOLLE Bill, sparked concerns amongst the local government sector, as it implies developing a much broader and detailed product than what is implied by the term 'local alcohol policy' used by the Law Commission. Our understanding is that local authority staff are more comfortable with the idea of a mandatory local alcohol policy since the change in terminology.

In our previous advice (in particular our submissions on the SOLLE Bill and Hawkins Bill), ALAC has strongly supported the need to ensure that communities have a real opportunity to be able to influence decision-making on licences being granted within their neighbourhoods.

Local alcohol policies provide an important avenue for communities to have a real say on licensing decisions in their areas, and in some cases provide the only opportunity. Further, as outlined in our submission on the SOLLE Bill, local alcohol policies will enable local authorities and their communities to plan the local alcohol environment and economy to the best effect for their community, taking into account both their social and economic needs. However, because it is not a mandatory requirement, not all local authorities have an alcohol policy.

We are concerned that some of the local authorities that don't have an alcohol policy are in areas that would really benefit by having a policy (e.g. local authorities in areas of high social deprivation, with high numbers of priority populations, and/or with high numbers of on- and off-licences per head of population). The preliminary findings of the Manukau study show that outlet density tends to be concentrated in deprived areas and affects particular populations more than others (i.e. Māori, Pacific peoples and young people).²⁴

An analysis of our information on territorial authorities and 2006 statistical data on sub-populations and low incomes also shows that of the 31 councils that **do not** have an alcohol policy in place:

- over half (18 councils) have a high proportion of at least one of ALAC's priority populations (i.e. Māori, Pacific peoples or young people) resident in their area, with seven of the 18 councils having high proportions of all three priority populations

²⁴ Cameron, M et al (2009) op.cit

- about a third (10 councils) are in the top 20 of all territorial authorities for having the highest percentage of on- or off-licences per head of population, with four of the 10 councils also having a high proportion of at least one priority population resident in their area
- almost 40% (12 of the 30 councils) are in the top 20 of all territorial authorities with the highest proportion of populations with low incomes²⁵ resident in their area, with three of the 12 councils having the highest proportions overall.

In addition, further analysis of the 12 councils with no alcohol policies and a high proportion of populations with low incomes resident in their area shows that:

- 75% (nine councils) had a high proportion of at least one of ALAC's priority populations, with four of the nine councils having high proportions of all three
- one-third (four councils) are in the top 20 of all territorial authorities for having the highest percentage of on- or off-licences per head of population.

While the proposed additional criteria for refusing licences should help to control outlet density in the future, the local alcohol policies would provide the detail on where outlets could be located (including proximity to other amenities such as schools), conditions around special licences (for example, of large events) and limits on the number of outlets in any particular area. This approach is consistent with our advice on the Hawkins Bill and the SOLLE Bill, where we supported communities to have the ability to have an input on location, proximity and density of alcohol outlets in their areas.

Local Government New Zealand's submission on the SOLLE Bill stated that councils considered that the special consultative procedure was the most appropriate mechanism for community input and consultation on local alcohol policies.

The special consultative procedure would also provide some means for ensuring that the views of those populations within the community that experience a disproportionate amount of alcohol-related harm (such as young people, Māori and Pacific peoples) are also represented in some way. With the proposed changes to the fee structure, greater resources should be available to local councils for the development of their alcohol policies.

Opening hours

Given that the evidence shows that alcohol harm has increased in association with liberalised alcohol laws and the trend towards longer opening hours, intervention and a change to the current system are required.

A nationwide set of opening hours will reduce off-licence opening hours and harm, as supermarkets, bottle stores, bars and clubs will be prevented from opening throughout the night. It will provide consistency

²⁵ This is determined according to the proportion of people living in households with gross real income of less than 60% of the median equivalised national income benchmarked at 2001. See

<http://socialreport.msd.govt.nz/regional/t-authorities/low-incomes.html>

between regions, thereby avoiding the transference of harm from one area to another. We would support off-licences having more restricted hours than on-licences, to avoid transferring drinkers from on-licence environments to public or home environments. This option will provide for more efficient and effective planning to reduce harm. The evidence is generally supportive of reducing opening hours, and this option would target the greatest harm, which occurs at nights and on weekends.

One option suggested by the Law Commission is to have a nationwide set of standard trading hours, but to 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. ALAC can see that there would inevitably be difficulties in determining the extent to which the individual licensee is responsible for certain harm in the community. A licence-extension fee would be better, and could be used to provide for improved transport and other options. However, this option would provide neither consistency, nor room for community say. In fact, arguably this option accepts that harmful drinking will occur, and merely plans to pay for the costs after the event. It does not support a moderate or responsible drinking culture. This option gives licence applicants the right to propose a deviation from the nationwide standard hours, rather than giving this right to the communities.

ALAC therefore proposes the option of having a nationwide set of trading hours, but allowing for local variation where a need is established and granted via a well-consulted local alcohol policy, and where individual licence applicants can show they have a plan in place to manage the risks of extended trading hours including complying with conditions specified in local alcohol policies. This option provides for greater community say in local opening hours, and ensures that any extension to trading hours is proposed and supported by the community. It provides for management of potential harm that may exist. It will mean an overall nationwide reduction in opening hours and the associated harm, while acknowledging local differences and community needs.

Specifically, ALAC proposes allowing for community say and local variation (extensions or shortening) of the nationwide on-licence trading hours via a well-consulted local alcohol policy, and where each licence applicant can demonstrate to the licensing decision-maker that they have a plan to manage the risks of extended trading hours. ALAC also proposes allowing for community say and local shortening of the nationwide off-licence trading hours, via a well-consulted local alcohol policy, in order to protect certain community areas, for example around schools.

This approach provides the greatest benefits in terms of reducing availability and alcohol harm, supporting a responsible and moderate drinking culture, and providing as much consistency as possible while allowing for community say. The evidence supports reducing opening hours as a means of successfully reducing alcohol harm. The nationwide hours proposed will target the greatest harm (weekend night-time drinking), while providing for tourist needs. ALAC believes this will also be a practical and reasonable option to implement.

One-way door policies

An evaluation of the Christchurch one-way door intervention, commissioned by ALAC and the Accident Compensation Corporation (ACC)²⁶, found that although there was no overall reduction in alcohol-related crime in the inner city (in fact there was an increase of 8% excluding liquor ban and disorder offences), there were reductions in some subsets of crime. For example, offences on Saturday and Sunday night (excluding liquor ban and disorder offences) decreased by 4%. Serious violence offences on Saturday and Sunday night decreased by 22%.

There is limited evidence on the benefits or otherwise of one-way door policies although they do provide a compromise for those people wanting to socialise until later. The 4am extension would be inconsistent with current practice in that some local authorities are providing for 3am closing times. A 3am closing time would also fit better with police shifts (until 4am).

Prohibited days

As is stated in the substantive submission from ALAC above, ALAC supports maintaining the status quo with respect to prohibited days (days on which alcohol is prohibited from sale for cultural or religious significance reasons). ALAC's concern is primarily with reducing alcohol-related harm. While we acknowledge that increasing the number of prohibited days (i.e. reducing the days of the year on which alcohol is available) would reduce availability and therefore reduce alcohol harm, such options are unlikely to be a practical and reasonable response to the harm that occurs, and would unfairly impact on responsible New Zealanders. We note the Law Commission's option to specify the hour at which prohibition begins (e.g. 2am) and agree that there would be practical benefit for those enforcing the Act in having the prohibition beginning time specified in the Act.

²⁶ Kirkwood, L and Parsonage, P (2008) *Evaluation of the Christchurch City one-way door intervention*, Wellington: ALAC and ACC

APPENDIX 2: PRICE AND PROMOTION OF ALCOHOL

PROMOTION OF ALCOHOL

Research has found that there is a statistically significant relationship between the level of exposure to alcohol promotion and the level and patterns of alcohol consumption. Measures to limit this exposure will help to reduce alcohol-related harm, particularly for youth.

The issues

Alcohol promotion (advertising, promotions and sponsorship) is sophisticated and diffuse, attempting to make a particular brand desirable to different subcultures in society through traditional advertising but also increasingly through sponsorships, internet advertising, point of sale materials, product placement and other means. The interactive nature of the web makes it a powerful promotional medium for alcohol and one that is very difficult to regulate.

This promotion of alcohol products and associated 'experiences' and 'lifestyles' helps to build a social and physical environment in which alcohol use is omnipresent, reinforcing New Zealand drinking norms that binge drinking is common and socially endorsed.

Research, in particular recent studies, have found that there is a statistically significant relationship between the level of exposure to alcohol promotion and the level and patterns of alcohol consumption, particularly for young people, who are particularly susceptible to this form of marketing.

The evidence on alcohol promotion

Review of Advertising 2007

The Review of the Regulation of Alcohol Advertising found polarised views on the extent of advertising affecting consumption, but concluded that when all published studies are considered together, there is a statistically significant relationship between level of exposure to alcohol advertising and the level and patterns of alcohol consumption, particularly in young people.

The review notes that the existing Principle 4 of the Code for Advertising Liquor concerns the exposure of young people to advertising. It requires that advertising should be directed at adults (and elaborates with, for example, the age of actors in advertisements), that advertising should not be directed at minors, nor have strong or evident appeal to minors in particular, and that television advertisements must screen after 8:30pm, and it limits the number of advertisements per hour. The review report notes that the code focuses on content of advertising, and there are no rules on placement for other media. While the Code for Advertising Liquor enables censure for targeting children, there are no restrictions on advertising with youth-oriented content likely to appeal to young people under 18 along with the target audience of adults over the age of 18.

In discussing the current self-regulatory regime the report suggests that a "system that relies on complaints may not prevent irresponsible advertising, and may not address wider public concerns".

Difficulties in controlling, monitoring and managing new and emerging forms of advertising and marketing were recognised by the review. Submitters to the review stated that more control is needed over newer forms of advertising due to the appeal and exposure of these forms of advertising to young people. The steering group suggests that the only feasible option for regulation of alcohol promotion on the internet is a code that places the onus on New Zealand publishers and advertisers, with sanctions for non-compliance.

In regard to sponsorship, the steering group acknowledged submitters' concerns about exposure of young people to alcohol sponsorship messages, and concerns about sponsorship of sports clubs and events. The review found insufficient evidence to support further restrictions on sponsorship by the alcohol industry.

Self-regulation research

Casswell and Maxwell considered alcohol marketing regulation in 2005.²⁷ They note that in 1999 Federal Trade Commission figures show that alcohol producers in the United States spend two to three times their measured media expenditure on unmeasured promotions such as sponsorships, internet advertising, point of sale materials, product placement and other means. They say the marketer's goal is to make the brand itself an experience and lifestyle – one of a subculture's defining features. They quote Tsang et al²⁸ who found that negative attitudes to personalised email, 'pxt' phone and phone internet methods of mobile advertising were likely to be overcome by high entertainment value, permission-based advertising or the provision of specific incentives. The interactive nature of the web makes it a powerful promotional medium, but one that is very difficult to regulate.

Casswell and Maxwell point out that self-regulatory codes of content typically include commitments not to couple alcohol with social and sexual success and not to show intoxication or link alcohol with younger people or with driving. It is difficult, on these grounds, to fault many modern advertisements because of the inherent subtlety of their word-work. "A long-running billboard campaign for a brand of beer (Tui) in New Zealand illustrates these difficulties. It plays to a largely young male audience using topical, ironic and subversive orientation and makes use of a tacit acknowledgement of shared understandings. The tagline is "Yeah right" and has been displayed with statements such as "I've done enough study....Yeah right" and "Weddings are more than just free beer....Yeah right". The campaign succeeded in making the line "Yeah right" a part of the New Zealand lexicon. The billboard advertisements themselves show only the brand logo, and would be unlikely to breach any code of content, while building considerable brand content.

The Advertising Standards Authority (ASA) argues the case for self-regulation in its document *Bugger....it's ok! The case for advertising self-regulation*. It argues that as a non-governmental organisation it is independent, with the majority of Complaints Board members being public members, and it is flexible, allowing complaints to be made online or in writing, with no cost to complainants. The ASA says it is able to act in a timely manner with the average time to process a complaint from receipt to notification of the Board decision being 25 days in 2007.

²⁷ Casswell, S and Maxwell, A (2005) 'Regulation of alcohol marketing: a global view', *Journal of Public Health Policy*, vol.26, p.343-358

²⁸ Tsang M et al (2004) 'Consumer attitudes toward mobile advertising: an empirical study', *International Journal of Electronic Commerce*, vol.8, p.65-78

There are few complaints made concerning liquor advertising. In 2008 the Complaints Board received 28 complaints under the liquor code. Seven complaints were upheld or settled. 11 were not upheld. The Chairman of the Complaints Board ruled that there were no grounds to proceed with 10 of the complaints.²⁹

Recent research

Anderson et al (2009)³⁰ provide an assessment of the impact of alcohol advertising and media exposure on future adolescent alcohol use by considering the results of 13 longitudinal studies. Their review finds that exposure to media and commercial communications on alcohol is associated with the likelihood that adolescents will start to drink alcohol, and with increased drinking among those who already drink.

The Science Group of the European Alcohol and Health Forum (2009) has also reported that there is consistent evidence to demonstrate an impact of alcohol advertising on the uptake of drinking among non-drinking young people, and increased consumption among their drinking peers.

The University of Sheffield paper *The Independent review of the effects of alcohol pricing and promotion* (June 2008) finds there is evidence to suggest that point of purchase promotions are likely to affect the overall consumption of under age drinkers, binge drinkers and regular drinkers, and that exposure to advertisements increases the likelihood of young people starting to drink, and the amount they drink. They find inconclusive evidence that suggests advertising bans have a positive effect in reducing consumption, but that bans have an additive effect when accompanied by other measures within a general environment of restrictive measures.³¹

The British Medical Association paper *Under the influence – the damaging effect of alcohol marketing on young people* (September 2009)³² notes that alcohol marketing communications come in many forms, from traditional advertisements on television through ubiquitous ambient advertising to new media such as social network sites and viral campaigns. The cumulative effect of this promotion is to reinforce and exaggerate strong pro-alcohol social norms.

²⁹ Advertising Standards Authority (2008) *Annual Report*, Wellington: ASA, p6. Available at <http://www.asa.co.nz/ar.php>. (Accessed 12 October 2009)

³⁰ Anderson, P (2009) 'Impact of alcohol advertising and media exposure on adolescent alcohol use: A systematic review of longitudinal studies', *Alcohol & Alcoholism*, vol.44, no. 3, p. 229-243

³¹ Booth, A et al (2008) *The independent review of the effects of alcohol pricing and promotion, summary of evidence to accompany report on phase 1: systematic reviews*, London: School of Health and Related Research Available at: http://www.dh.gov.uk/en/PublicHealth/Healthimprovement/Alcoholmisuse/DH_4001740 (Accessed 7 October 2009)

³² Hastings, G and Angus, K (2009) *Under the influence: The damaging effect of alcohol marketing on young people*, London: British Medical Association Board of Science Available at: http://www.bma.org.uk/health_promotion_ethics/alcohol/undertheinfluence.jsp# (accessed 7 October 2009)

Options to address alcohol promotion: ALAC response

Addressing advertising and sponsorship

Although the evidence base is increasingly clear about the adverse impacts of alcohol promotion, it is unclear how best to deal with the issue while avoiding perverse results or unreasonably impacting on New Zealand's economy. Given this complexity, ALAC recommends as a priority that a whole of government process, similar to 'Smokefree', be initiated to gradually reduce alcohol promotion over time.

Reducing the exposure of those under 18 years of age to alcohol advertising

ALAC proposes that measures should be taken to reduce the exposure to alcohol promotions of those under the minimum purchase age. Practices that would help to limit this exposure include a 9:30pm watershed for broadcast advertising material, restrictions on advertising on public transport (including bus shelters) and cinemas, restrictions on price promotions (e.g. two-for-one deals and happy hours, as research shows youth to be particularly price sensitive) and limiting areas of supermarkets where alcohol is displayed.

Limiting exposure of young people to alcohol sponsorship, however, is a complex issue. For example, Heineken has announced that it will be "worldwide partner and the official beer of Rugby World Cup 2011 in New Zealand". There should be further consideration, as a matter of urgency, to the ways in which those under the legal purchase age are exposed to sponsorship, particularly in sport and activities which are attractive to young people, such as music festivals.

Promotion principles and codes should be enshrined in law

Recently, the ASA developed a voluntary code for alcohol promotions but it does not apply to on-licence premises. ALAC considers that all of those in the alcohol industry should abide by the same principles for alcohol promotion, and that these should be established in legislation.

Therefore, ALAC considers that the principles and codes for advertising and promotion of alcohol should be enshrined in law, rather than being voluntary. Further, ALAC recommends that a breach of the principles and or/codes should be considered a breach of licensing conditions, helping to ensure responsible behaviour on the part of licence holders.

Tobacco advertising as an example

The elimination of advertising and sponsorship of tobacco in New Zealand took place over more than 30 years.

Tobacco advertising was stopped (by the broadcasters) on television and radio in 1963, and in 1973 government and industry agreed to end tobacco advertising on cinema screens and outdoor billboards. By 1981 tobacco advertising was restricted to print media, shop signs, and sponsorship of sporting and other events.

From the 1970s to 1988 the tobacco industry placed voluntary health warnings on cigarette packets. In 1988 regulations were introduced making health warnings compulsory.

The Smoke-free Environments Act 1990 (the SFE Act 1990) includes provisions that regulate the marketing, advertising and promotion of tobacco products, whether directly or through the sponsoring of other products, services, or events. The purpose of Part 2 of the Act is to reduce the social approval of tobacco use, particularly among young people, by imposing controls on the marketing, advertising or promotion of tobacco products and their association through sponsorship with other products and events.

Following the passage of the SFE Act 1990, health warnings were expressed in much stronger terms.

In 1990 the SFE Act 1990 introduced comprehensive prohibitions on tobacco advertising, although these did not apply to films or magazines originating outside New Zealand. Existing sponsorship was to be phased out by 1993, and there were to be no new tobacco sponsorship deals.

A ban on print advertising and shop signs was introduced in December 1990. In practice, shop advertising still occurred through price notices, which were still allowed. In 1995 tobacco manufacturers voluntarily agreed to limit price notices to one square metre per shop, and in 1997 the legislation was amended to eliminate all shop advertising, with price advertisements restricted to the size of a business card from December 1998. Product displays were permitted, with restrictions.

In practice, tobacco sponsorship was phased out gradually from 1990. Under the original SFE Act 1990 all tobacco sponsorship was to have ended by 1993. In 1991 the Act was amended ('The World Cup Cricket Amendment') to allow the continuation of sponsorship until 1995. An amendment was proposed in 1991 to repeal the sponsorship ban, but all parties agreed in 1993 to postpone the commencement of the ban from 1993 to July 1995. The 'Winfield Amendment' permitted tobacco-sponsored rugby league until December 1995.³³

Advertising of tobacco brand names on other goods was also banned by the SFE Act 1990 with qualified exceptions for goods that had been on sale before the Act, such as Dunhill watches. Selling tobacco brand-named items such as clothing or coffee became illegal.

PRICE

The use of increases in price to reduce alcohol-related harm is one of the most evidence-based and internationally well accepted strategies, but changes to the New Zealand alcohol market in recent years have eroded its effectiveness. Over the past 20 years, alcohol has become more affordable, the full cost of increases in excise tax may not always be passed on to consumers and competition for the liquor market is such that many off-licence outlets, big and small, will offer heavily discounted specials to attract customers and encourage them to buy in larger amounts, for instance, larger pack sizes or two-for-one deals.

The issues

While excise tax continues to be an effective harm-reduction strategy, changes to the alcohol market in recent years have eroded its effectiveness. Over the past 20 years, alcohol has become more affordable

³³ Laugesen M and Swinburn, B (2000) 'New Zealand's tobacco control programme 1985 to 1988', *Tobacco Control*, vol. 9, p.155-162

overall. The full cost of increases in excise tax may not always be passed on to consumers, the cost instead being partially absorbed by the producers, retailers and the hospitality industry.

Competition for the liquor market is such that many outlets, big and small, will offer heavily discounted specials to attract customers. Supermarkets and liquor retail chains take large shares of the market, and they drive price competition. Their ability to buy in bulk and negotiate lower wholesale prices means they can pass on significant discounts to customers. Alcohol prices at supermarkets are in the order of 5-10% below those at other stores.³⁴

The average size of an advertised discount by a grocery or supermarket outlet is 32% compared with bottle stores which average around 22-23%.³⁵

Our analysis of a range of 40 popular advertised products show that there is often a wide variance among the prices advertised for an individual product. The average variance between the lowest advertised price and the highest advertised price, for the same product, is \$8.20 for wine, \$13.65 for spirits, \$8.96 for beer, and \$6.95 for RTDs. The lowest prices are the result of deep discounting.³⁶

Because the operating environment is geared for high-volume sales strategies, this translates not only to cheaper alcohol products, but also to economic incentives for consumers to buy in larger amounts, for instance, larger pack sizes or two-for-one deals. Analysis of price advertising data shows there has been a measurable increase in the beer pack sizes promoted by supermarkets. Larger purchases can contribute to increased consumption.

There is substantial variation in the prices of alcohol sold for consumption elsewhere since 1999. By the end of 2008, the prices for alcohol consumed at on-licence premises had increased by 47%, whereas the price for alcohol consumed from off-licence premises had only increased by 20%.³⁷ A common drinking practice in New Zealand is pre-loading - drinking at home before going to on-licence premises later in the evening.

Alcohol in our lives discusses themes similar to the above. It seems a wide consensus has formed that the main problem is cheap off-licence prices. At issue is how to address this in a way that targets heavy drinking without also having an unacceptably high impact on moderate drinking.

With regard to on-licence prices, their price promotions have been reasonably well constrained by section 154(a) of the Sale of Liquor Act, which prohibits promotions likely to encourage excessive consumption on licensed premises. This law is supported by the National Protocol on Alcohol Promotions, a voluntary guideline which sets out types of promotions that are unacceptable and types that are acceptable. This regulatory framework is responsive and reasonably successful, although there are still numerous cases of

³⁴ BERL (2007) *Effects of the entry of supermarkets into the liquor market*, Wellington: BERL (Report to Alcohol Advisory Council)

³⁵ Market research obtained by ALAC

³⁶ *ibid*

³⁷ Statistics New Zealand Infoshare data, CPI alcohol consumed off licensed premises and on licensed premises.

The CPI time series for these two categories began in 1999

questionable on-licence pricing practices and price promotions. This submission concentrates on prices of alcohol sold at off-licences, since they are relatively so much cheaper than on-licence prices, and because the off-licence industry appears to be under-regulated in comparison to on-licences.

The evidence on price

The use of price to reduce alcohol-related harm is one of the most evidence-based and internationally well accepted strategies. The rationale is that increasing the price reduces consumer demand for alcohol. While the relationship between price and drinking is complex, research using various methodologies has confirmed that the cost of alcohol is an important determinant of alcohol consumption.³⁸ Overall, price increases result in aggregate reductions in alcohol consumption, with consequent reduction in harm.

There is still some debate about the magnitude that price changes can have on consumption levels and harm, whether price changes affect the harmful drinking of key population groups such as binge drinkers or young drinkers, and to what extent the benefits of alcohol should come into the equation.

The debate between industry representatives and public health advocates revolves around price responsiveness studies ('price elasticity') and what they say about the difference between the responsiveness of moderate drinkers versus heavy drinkers. A 1995 study by Manning et al, based on a 1983 US survey, concluded that heavy drinkers are much less price responsive than moderate drinkers.³⁹ This study has been discredited as unreliable by alcohol researchers Babor et al. More recent research shows that heavy drinkers are likely to reduce the amount they consume as a result of high prices, and that teenagers reduce their drinking in extended drinking sessions.⁴⁰ However, industry-sponsored reports still use Manning's research to argue that heavy drinkers are not price responsive and that price increases will impact more on moderate drinkers.⁴¹

It is also sometimes argued that heavy drinkers are not price responsive because of addiction. There is mixed evidence about whether or not people with addictions are responsive to price increases. In any case, in New Zealand the vast majority of 'heavy drinkers' do not have an addictive disorder. The heaviest drinking group by far is young adults who drink heavily per occasion in social settings, and most in this group are not addicted. We can reject the argument that price increases will not impact on New Zealand's heavy or binge-drinkers.

We acknowledge that price increases will inevitably impact to some degree on light drinkers and moderate drinkers. Some people on low incomes may respond by shifting spending from food to alcohol. A large

³⁸ Babor et al (2003) op.cit

³⁹ Manning et al (1995) 'The demand for alcohol: The differential response to price', *Journal of Health Economics*, vol.14, p.123-148

⁴⁰ Wagenaar, A et al (2009) 'Effects of beverage alcohol price and tax levels on drinking: A meta-analysis of 1003 Estimates From 112 studies', *Addiction*, vol.104, p.179-190 and Thaksaphon, T et al (2006) *Alcohol taxation in the Western Pacific region* (Report prepared for the World Health Organisation Regional Office for the Western Pacific by Centre for Social and Health Outcomes Research and Evaluation)

⁴¹ For example, Centre for Economics and Business Research Ltd (2009) *Minimum Alcohol Pricing: A targeted measure?*, p.20, www.cebr.com.

increase in price may cause substitution to illegal and/or informal markets (selling homebrew). These effects should constrain the level of price rise sought, but are not reason enough to abandon price increases altogether because of the overall effectiveness of this strategy in reducing harm.

Options to address price: ALAC’s response

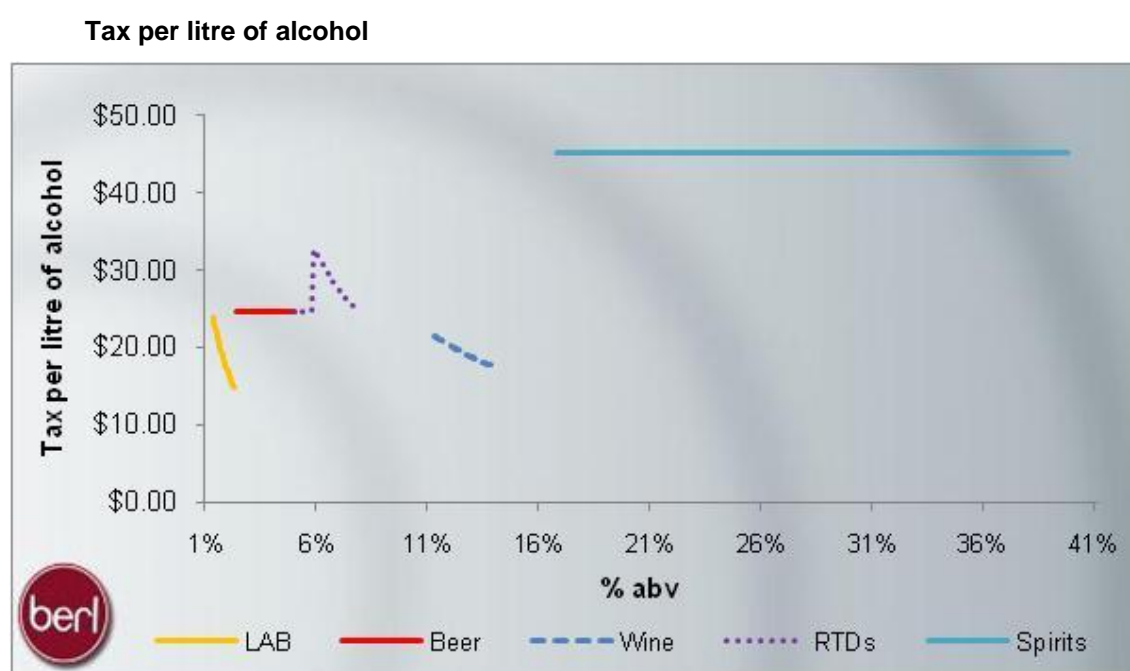
Recalibrate the excise tax levels

This option could be adopted either in addition to other policies or as a stand-alone policy. The current structure may need adjusting to ensure it is rational in reflecting alcohol content in the price. In *Alcohol in our lives*, one identified option is “Change to a pure volumetric excise tax system (that is, remove the current bands to make the rates more closely reflect volumes of alcohol”. While the volumetric principle has merit (and ALAC has advocated for this in the past), there are issues with recommending a “pure” volumetric system, as will be explained further below. Firstly, a look at the current excise tax system follows.

The current excise rates are set out below. The ranges that have a ‘deemed’ alcohol content, because they are taxed per litre of beverage, are called ‘bands’.

Alcohol content	Deemed/Actual alcohol content	Excise rate
0 - 1.15%	0%	n/a
Above 1.15% - 2.5%	1.5%	38.208c per litre beverage
Above 2.5% - 6%	Actual alcohol content	\$25.476 per litre alcohol
Above 6% - 9%	8%	\$2.0380 per litre beverage
Above 9% - 14%	10%	\$2.5476 per litre beverage
Above 14%	Actual alcohol content	\$46.400 per litre alcohol

The effect of the bands is illustrated in the following diagram, which shows the tax per litre on beverage categories:



The downward sloping lines represent the bands, where the rate is set per litre of beverage. A bottle of wine with alcohol content at the top end of the band (14%) is paying less tax per litre of alcohol than a bottle of wine with 9% alcohol content. The average alcohol content for wine is 11.08%.⁴²

Winegrowers argue that wine should not be taxed per litre of alcohol because of practical difficulties in predicting alcohol content and because it would discourage growers from seeking full ripeness for fear of incurring an additional tax burden. They argue that growers should not have to factor in tax or levy concerns because it would interfere with their focus on producing quality wines.⁴³ However, other wine experts disagree with the assumption that strong wine necessarily equals high quality. Wine-makers in Europe do not seem to focus on producing high-alcohol wines. In any case, the concerns particular to the wine industry need to be taken into account.

Brian Easton reasoned that “if bands are necessary, they should be as short as possible, and the excise duty rate for each band should be based on the ethanol content at the top of the band (not at some inner point). However, products in a band should have the option of the duty being levied on the actual ethanol content of the product (rather than the rate at the top of the band) if this can be measured sufficiently precisely”.

Easton’s analysis is still relevant today. It would be advisable for the excise tax structure to be reviewed and recalibrated to ensure a rational, impartial approach to setting the rates. The goal should be to spread the burden of tax so that the more alcohol that is purchased, the more tax that is payable. The rate should be primarily tied to the volume of alcohol in the beverage. However, we would stop short of advocating ‘pure volumetric taxation’ as it would result in spirits being sold at a much lower cost per standard drink. Variations may be needed either to make up for varying production costs (as is the case with spirits and wine), or for practical and industry-specific reasons, as discussed above.

Reduce or remove the excise tax for low-alcohol products

The rationale for reducing or eliminating excise tax for low-alcohol beverages is to stimulate the market for low-alcohol beverages, thus leading to increased consumption of these in place of higher-alcohol beverages.

Australia made tax exemptions for low-alcohol beverages in the 1980s and in 2000. Australia’s excise structure is favourable to beer with alcohol content below 3% abv (‘alcohol by volume’) as well as mid-strength beer (between 3% and 3.5% abv). Industry and government data suggests that these changes in excise rates have contributed to shifts in consumption patterns.⁴⁴ Low-strength beer makes up about 10% of the Australian market, compared with 1% of the New Zealand market.⁴⁵ There is very little in the way of packaged low-alcohol wine-type beverages, and no known low-alcohol RTDs.

⁴² BERL (2007) op.cit, p.16

⁴³ NZ Winegrower’s (2008) *Submission on the ALAC Amendment Bill* (26 March), Auckland: NZ Winegrower’s

⁴⁴ International Centre for Alcohol Policies (2007) *Lower Alcohol Beverages* (Report 19), Washington DC: ICAP

⁴⁵ Law Commission (2009) op.cit, p.20

Recent published research concluded that beer drinkers cannot readily distinguish low and regular strength beers and can enjoy socialising equally with either. The researchers recommended taxation strategies to create incentives for the manufacture, marketing and consumption of low-alcohol alternatives.⁴⁶

Brian Easton advocated for an exemption for low-alcohol beverages, stating “Whether there is a significant market for such low alcohol drinks is a matter for entrepreneurial initiative. The excise duty system should not discourage it.”

The provision of low-alcohol beverages is promoted in ALAC’s advice on host responsibility and the management of large-scale events.⁴⁷ In Manukau, The Hunter’s Inn and the Council licensing inspector organised a low-alcohol beer promotion on the licensed premise. The promotion was successful in switching customers to low-alcohol beer and it was reported as having reduced disorder outside.⁴⁸

Exempting low-alcohol beverages from excise tax would not cause a dramatic reduction in harm. However, in the long term, we believe it would be beneficial by helping to facilitate more low-alcohol choices, more use of low-alcohol beers in harm reduction initiatives, and ultimately changes in people’s drinking habits.

One outstanding question that would need more policy work is the exact setting for an exemption – whether to make it 2.5% as currently defined in New Zealand, or 3% to align it with Australia’s definition.⁴⁹

Increase excise tax

Governments have used alcohol taxation for more than a century as both an important way to collect revenue and a way of reducing harm. Today, revenue collection is no longer a rationale for taxing alcohol, as Governments have moved towards broad-based taxes for that purpose.

Overall, prices of alcohol in New Zealand increase following the scheduled annual adjustment of excise rates for inflation. Producers raise the recommended retail price following the annual adjustment and they will often choose this time to also pass on other costs, such as any increased costs of ingredients.

Despite the annual adjustments, clearly excise tax increases are not consistently passed on to consumers. We can see this from observing the deep discounting phenomenon, the significant variation between on- and off-licence prices, and anecdotal evidence of some smaller brands not showing a price rise in successive years because of the dominance of the large retailers in negotiating prices. Sometimes hospitality businesses and small off-licences will buy directly from supermarkets rather than wholesalers - such is the ability of supermarkets to discount price.

⁴⁶ Segal D and Stockwell T (2008) ‘Low alcohol alternatives: a promising strategy for reducing alcohol-related harm’, *International Journal of Drug Policy* (www.elsevier.com/locate/drugpo)

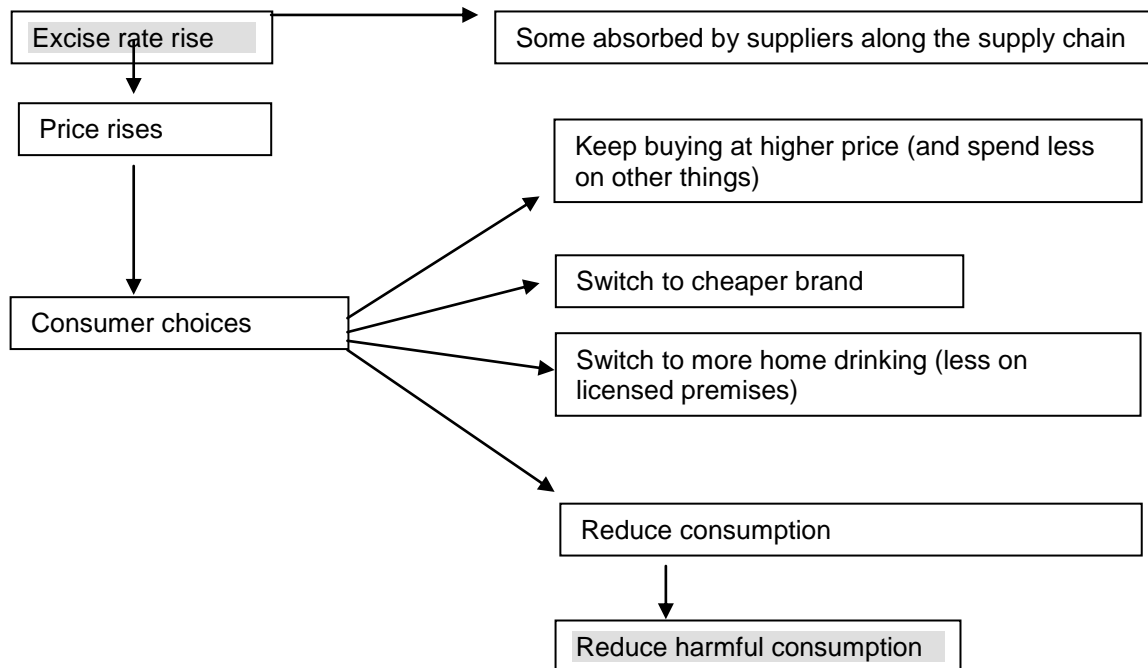
⁴⁷ ALAC (2008) *Guidelines for the Management of Alcohol in Large-Scale Public Events*, Wellington: ALAC

⁴⁸ Eastern Courier (2008) *Toast to Light Beer* (7 May)

⁴⁹ *ibid*

When thinking about the likely impacts of various price policies on consumption, we need to keep in mind that in a diverse and dynamic liquor market like New Zealand's, industry players and consumers have choices in how they respond to price changes.

The diagram below shows how some of the impact of a rise in the excise rate is diluted before it reaches its aim of reducing harmful consumption.



As a stand-alone policy, a straight increase in excise tax rates over and above the inflation adjustment would increase the current disparities in the excise structure.

Despite it being a blunt instrument, an excise tax increase has the advantage of being the easiest to implement, since the administrative apparatus for it already exists. It is also a 'known quantity' in comparison with the option of minimum retail price, which is untried in a market-based economy for alcohol.

Given the issues in New Zealand's market, we believe it would be advisable for detailed policy work to be undertaken into the alternatives to an excise tax rise, particularly minimum retail price, before considering an increase in excise tax.

Adopt a mandatory minimum retail price

This option is designed to operate in addition to an excise tax system.

Grunewald et al (2006) used Swedish price and sales data to assess the relationship between alcohol prices, quality and sales ('quality' here means low priced or high priced).⁵⁰ The results showed that consumers responded to price increases by altering their consumption and varying their brand choices. The

⁵⁰ Grunewald, P et al (2006) 'Alcohol prices, beverages quality, and the demand for alcohol: Quality substitutions and price elasticities', *Alcoholism: Clinical and Experimental Research*, vol.30, no.1, p.96-105.

broad range of beverage prices provided consumers with the opportunity to mitigate the effects of average price increases through quality substitutions. Grunewald concluded that concentrating on lower-priced brands when instituting a price rise is likely to have the greatest effect on reducing overall consumption.

Minimum pricing for all alcohol products, to varying levels, has been introduced in about eight of the 13 jurisdictions within Canada. There is a surprising lack of published research about minimum price in Canada. A recent industry-sponsored report studied the data and concluded that alcohol consumption in provinces that have instituted minimum pricing has fallen relative to those that do not have a minimum pricing regime.⁵¹

Scotland is pursuing minimum retail pricing, based on alcohol strength, as part of a wider strategy to reduce alcohol-related harm.⁵² Scotland's policy is informed by research by the University of Sheffield which showed that a minimum retail price and discount bans would bring significant health and social benefits.⁵³ Among its conclusions were:

- Minimum pricing targets price increases at alcohol that is sold cheaply. Cheaper alcohol tends to be bought more by harmful drinkers than moderate drinkers and studies show that it is also attractive to young people. So a minimum pricing policy might be seen as beneficial in that it targets the drinkers causing the most harm to both themselves and society. Conversely, it does not seek to target higher-priced alcohol sold as premium product
- Moderate drinkers (ie those who drink within sensible drinking guidelines) are only marginally affected, simply because they consume only a small amount of alcohol and also because they do not tend to buy as much of the cheap alcohol that would be most affected. For example, moderate drinkers would be predicted to spend on average 11p extra per week if a 40p minimum price was introduced
- The effects of price increases may not be disadvantageous to business because the estimated decrease in sales volume may be more than offset by the unit price increase, leading to overall increases in revenue.

New Zealand has market dynamics and issues with cheap prices similar to Scotland and the UK, although the issues seem to be worse in the UK. Our excise system is better because it is adjusted annually for inflation, whereas the UK one is not, so their excise rates have fallen behind. The UK market has a lot of very cheap cider, a phenomenon not seen in New Zealand.

Efforts to assess the potential impact of a minimum price in New Zealand have been hindered by a lack of access to sales data.

⁵¹ Centre for Economic and Business Research Ltd (2009) op.cit

⁵² The Scottish Government, (2009) *Changing Scotland's Relationship with Alcohol: A Framework for Action*, Edinburgh: Scottish Government

⁵³ University of Sheffield (2008) *Independent Review of the Effects of Alcohol Pricing and Promotion: Part B*, Sheffield: University of Sheffield

(http://www.dh.gov.uk/en/Publichealth/Healthimprovement/Alcoholmisuse/DH_4001740)

Prices across the market can be estimated by looking at New Zealand liquor price advertising data.⁵⁴ The top price in the lowest quartile for each beverage category is wine \$1.03, beer \$1.04, spirits \$0.98 and RTDs \$1.16. So if, for instance, a minimum retail price of \$1.00 was applied, its impact would be limited to the cheapest 20-25% of the market.

Further research and policy work would be needed to ascertain if a minimum price floor would have an impact of sufficient magnitude on consumption and harm to be worthwhile. For this to happen, it would be best if aggregate sales and price data was made available, so we can accurately see the volumes of alcohol sold at each price.

With regard to implementation, we agree with the Law Commission's conclusion that a minimum retail price could be implemented via the licensing system. Implementation would not be overly bureaucratic. The policy would also be transparent and even-handed across industry.

On the downside, a minimum price policy would likely result in a transfer of revenue from Government to industry. Minimum price floors are rare. Examples are the minimum wage, and Fair Trade schemes which guarantee a minimum price for the farmer's coffee beans. These policies are publicly acceptable, as they transfer wealth to low-income people. However, a minimum price for alcohol would not do this.

A minimum retail price would create an incentive for suppliers to promote the cheapest products, in order to maximise profits. In particular, the use of on-purchase consumer incentives would offset some of the intended effect of the minimum price. For instance, supermarkets could offer a frozen pizza with a bottle of cheap wine, or a pack of beer for every \$50 of groceries spent in-store. To counter this, a restriction on consumer incentives with purchase may need to be enacted along with the minimum price.

It would be necessary to target a minimum retail price at off-licence prices and exclude on-licences in the initial analysis. If the same policy was applied to on-licences, it would create a compliance cost that may not be worth the benefits. Separate measures would need to be considered for on-licence price promotions.

In summary, there is much potential in this option. ALAC supports a minimum retail price policy in principle, and recommends detailed policy work. To enable this work, it is best to have data showing volume sales with prices. We note that the Sale of Liquor Act empowers the LLA to require a licensed premises to make any data available to it. Yet the data is not available in an aggregate form to enable high-level policy work. This is an obstacle that needs to be addressed at a high level.

Regulate price promotions (including discounting)

This option needs serious consideration and further exploration of sub-options. It could be adopted as a stand-alone policy or in conjunction with other feasible options.

We can identify certain types of sales promotions that are worse than others, for instance when the customer has to buy two bottles to get the deal. It may be possible to restrict such price promotions that encourage

⁵⁴ Market research obtained by ALAC

bulk buying, without preventing retailers from offering competitive prices per se. The difficulty is in designing a mechanism that cannot be circumvented by creative marketing strategies.

Scotland has some good proposals, as follows:

- Put an end to off-sales premises supplying alcohol free of charge on the purchase of one or more of the product, or of any other product, whether alcohol or not
- Put an end to off-sales premises supplying alcohol at a reduced price on the purchase of one or more of the product, whether alcohol or not.

A potential unintended consequence is if producers move towards larger-sized containers in order to get the same volume of sales. Their ability to do this would likely be constrained by consumer expectations. Any trends would need to be monitored.

Another option is to create a legal provision prohibiting pricing practices or promotions that create an economic incentive for the customer to purchase larger amounts. The application of this law could be left to the LLA and DLAs. This leads into the next option.

Empower 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

We agree with this proposal by the Law Commission. However, we believe a direction from Parliament is also necessary, to set a consistent principle. This option really only describes an enforcement mechanism, rather than a policy. It is important to set some policies on off-licence prices in liquor legislation, otherwise actions by the licensing authorities may clash with the Commerce Act.

The off-licence pricing issue has already played out in LLA hearings. In an LLA case in December 2008, an application for a Henrys off-licence was opposed, with a signed petition. The objectors were concerned that the store would increase young people's access to cheap alcohol. Under cross-examination, the applicant explained that he accepted that he had a responsibility to the community, but "if his competitors sold liquor below cost, then he would have to follow suit in order to survive. He cited a situation where his company had made a moral decision not to sell fireworks, and had lost turnover as a result. Mr Gray said that he was prevented by law from discussing prices with his competitors. He said he would be happy if there was a minimum price for liquor. On the other hand, other retail spokespeople have denied that they have any social responsibility with regard to how they price alcohol.

In light of the above, we believe there is a need for a legislative principle that would give the LLA and DLAs scope to apply conditions to off-licence price promotion practices, and there may be a need for specific restrictions to that effect (such as ones for price promotions described under the previous heading). This discussion touches on the wider issue of the regulation of off-licences generally, or rather, the lack of regulation.

Make better provision for the regulation of off-licence practices

There is a lack of control on the practices and promotions of off-licence premises compared with on-licence premises. Various stakeholders have suggested that off-licences should be subject to a law similar to section 154(a) which prohibits the promotion of excessive consumption of alcohol on licensed premises. Section 154(a) generally works well and is supported by the “National Protocol on Alcohol Promotions”, a joint guideline by ALAC, the Hospitality Association of New Zealand (HANZ), the Police and Local Government New Zealand. Section 154(a) is underpinned by the legal requirement to not serve intoxicated patrons. It has been suggested that there should be a ‘section 154(b)’ requiring socially responsible business practices by off-licences in the marketing of alcohol.

A social responsibility requirement for off-licence business practices would be useful to set a platform for developing good practice around sales to minors, supervision and management of checkout staff, product display and in-store promotions. The LLA and DLAs should be able to prevent off-licences from harmful practices such as selling single-serve containers in areas with street drinkers, or the practice of holding a regular customer’s eftpos card as a way of purchasing alcohol on credit, or heavily discounted beer and RTDs promoted around Orientation week in university towns.

A social responsibility requirement for off-licences could result in a code of good practice for off-licences, especially if local alcohol plans were strengthened and included a range of conditions, for example a limit on product display areas. There could be a synergy between local alcohol policies and a code of good practice.

Proposal not supported

Some are advocating for a prohibition of advertisements containing the price of alcoholic beverages. This option would hamper price competition if retailers were unable to advertise specials. It would significantly reduce the number of price promotions. However it would not prevent all price competition, as retailers will still be able to offer cheaply-priced alcohol. Supermarkets will have an advantage over bottle stores because of foot traffic, so they will easily be able to adjust strategies so as to offer in-store price discounts despite not being able to advertise them. Pak’n Save does not usually advertise liquor prices, yet it offers very competitive prices; in fact its wine prices are cheaper overall than its competitors. There would be more vertical integration of the supply chain with generic ‘homebrands’ of cheap alcohol appearing on the shelves.

This option would also likely hamper on-licence price competition, and thus reduce harm. However, as with off-licences, where there is a demand for cheap alcohol, that demand can still be filled without the ability to advertise. Some student pubs currently do not need to advertise prices, since word-of-mouth and texting ensure the target market is well informed of where to go for low prices. In areas with such low-priced pubs, it is the responsible licensees who may suffer from a ban on price advertising.

Unlike the minimum price option, which would be largely invisible to consumers once implemented, this option would be very noticeable to the public because they would not have the same opportunities to choose premium brands of beer on special and may have to substitute cheaper beer brands. If the policy included price lists on websites, it would create a problem for online purchasing.

From a Bill of Rights perspective the option seems very problematic, as it would greatly interfere with the ability of businesses to operate normally.

ALAC does not support this option as a price policy option. The alternative options are more targeted, with less apparent drawbacks.

APPENDIX 3: YOUTH DRINKING

Binge drinking is a characteristic of New Zealand's alcohol environment and our young people have embraced this way of drinking with consequent negative impacts on themselves and New Zealand society.

THE ISSUES

A characteristic of the current New Zealand alcohol environment is youth binge drinking - approximately a third of youth drinkers aged 12 – 24 binge drink, with consequent negative impacts on themselves and New Zealand society such as alcohol-related offending, injuries and motor vehicle accidents.

Further, ALAC research indicates that young people aged 14 – 18 years of age have experienced an increase in consumption since the purchase age was lowered in 1999. Therefore, consumption increased at the lowered purchase age but also extended to younger age groups. Of particular concern is that a significant proportion of young drinkers aged 15 – 17, an age group that shows pronounced binge drinking behaviour (see Table 1), acquire alcohol from friends 18 years or over and this situation is exacerbated by half of school students in year 13 turning 18 during the school year.

Table 1

	All youth	12-14 years	15-17 years	18-24 years
Drinking segments	%	%	%	%
Non-drinkers	30	70	29	12
Moderate drinkers	38	22	27	50
Binge drinkers	32	8	44	38

This 'halo' or 'trickle down' effect, whereby someone aged 18 or 19 is providing alcohol to younger teenagers, particularly those in the 15 – 17 year age group who binge drink, is extremely problematic, contributing to 12 – 17 year old drinkers being more likely to have experienced almost every alcohol-related problem, including being between two and six times more likely to have had unprotected sex, had sex and later regretted it, got into a physical fight, been arrested or detained in a police station and been sexually assaulted.

About half of youth drinkers aged 12 – 17 obtain alcohol from their parents or guardians. Most parents supervise their teenagers' consumption of alcohol however, in an ALAC parental survey 21% of parents of teen drinkers reported that they had supplied alcohol when they were not present to supervise. In these circumstances, 30% provided four to five drinks, a further 30% provided six to ten drinks while 4% provided more than 10 drinks.

THE EVIDENCE ON YOUTH DRINKING

Introduction⁵⁵

Alcohol use is common among young people aged 12 – 24 with some research indicating that most consume their first drink between the ages of 10 and 15 and nearly half consume their first drink before age 13.⁵⁶

Over two-thirds (70%) of New Zealand youth aged 12 – 24 identify themselves as being drinkers⁵⁷ while studies indicate that just over half of youth aged 12 – 17 years drink alcohol to some extent.⁵⁸

Drinking behaviour

Of the 70% of New Zealand youth aged 12 – 24 that identify as being drinkers it is estimated that 38% are moderate drinkers while 32% are binge drinkers.⁵⁹ Significant binge drinking is found in all the recent New Zealand studies. Among secondary school students the *Youth07* report found that “about one-third (34%) of students reported that they had engaged in binge drinking (five or more drinks within four hours) in the last four weeks”⁶⁰ while the report *Alcohol use in New Zealand* stated that “overall, 12.4% ... of youth drinkers consumed large amounts of alcohol at least once a week.”⁶¹

⁵⁵ The youth population can be divided into two cohorts that divide at the purchase age: 12 – 17 and 18 – 24. Most recent New Zealand studies have concentrated on the 12 – 17 cohort with ALAC Monitors breaking this down further into 12 – 14 and 15 – 17 year olds. The recent ALAC Monitor (Volume 3: Youth) combines both the 12 – 17 and 18 – 24 age groups. The different studies with their differing target groups and methodologies make it difficult to directly compare the data. This section therefore provides an indicative snapshot of youth alcohol consumption and highlights particular issues for further discussion.

⁵⁶ Adolescent Health Research Group (2004) *Alcohol and New Zealand Youth: A snapshot of young people's experiences with alcohol*, Auckland: University of Auckland, p.3.

⁵⁷ ALAC (2009) *ALAC Monitor November 2008, Volume 3: Youth – Draft Report*, Wellington: ALAC, p.8

⁵⁸ The ALAC Monitor 2007/08 (ALAC (2009) *Alcohol Monitor – Adults and Youth 2007-08 Drinking Behaviours Report*, Wellington: ALAC, p.20) states that “consistent with previous years, over one-half (52 percent) of young people aged 12-17 ... reported that they drink alcohol to some extent” while the report *Alcohol Use in New Zealand* states that “Overall, 55.7% (51.8–59.7) of New Zealand youths aged 12–17 years had consumed alcohol in the last 12 months” (Ministry of Health (2007) *Alcohol Use in New Zealand: Analysis of the 2004 New Zealand Health Behaviours Survey – Alcohol Use*, Wellington: Ministry of Health, p.44).

⁵⁹ ALAC (2009) *ALAC Monitor: Youth*, p.12. A moderate adult drinker is a person 18 years and over that currently drinks alcohol, but has **not** consumed seven or more standard drinks on the last occasion or on any occasion in the last two weeks. A moderate youth drinker is a person 12 – 17 years of age that currently drinks alcohol, but has **not** consumed five or more standard drinks on the last occasion or on any occasion in the last two weeks. A binge youth or adult drinker is one who has consumed seven or more or five or more drinks respectively on the last occasion or on any occasion in the last two weeks (p.6).

⁶⁰ Adolescent Health Research Group, (2008) *Youth'07: The Health and Wellbeing of Secondary School Students in New Zealand. Initial Findings*, Auckland: University of Auckland, p.26.

⁶¹ Ministry of Health (2007) op.cit, p.45. This report refers to the World Health Organisation AUDIT (Alcohol Use Disorders Identification Test) that recommends that on any one drinking occasion no more than six standard drinks

Of the estimated one-third of New Zealand youth classified as binge drinkers, 8% are 12 – 14 year olds, 44% are 15 – 17 and 38% are 18 – 24 year olds while two-thirds (66%) of youth drinkers report that they have ever consumed alcohol at binge levels. Furthermore, 30% of youth drinkers report drinking at binge levels in the last two weeks and 39% on their last drinking occasion.⁶²

The research also indicates that a significant number of youth drinkers get drunk when they drink and that many plan to get drunk.⁶³

The drinking behaviour of 15 – 17 year olds is particularly concerning. The percentage of 15-17 year olds and 18-24 year olds reporting that they have ever consumed binge levels of alcohol is the same (71 cf. 70%) while on their last drinking occasion 15-17 year olds drank as much as or slightly more standard drinks than those aged 18-24 (7.7 to 7.1). Females in this age group drank as many standard drinks on the last occasion as males but were more likely to be drinking RTDs or spirits than males who tend to drink beer. Two-thirds of those aged 15-17 (both male and female) report that they are now drinking more than last year (65%).⁶⁴

Drink types

In general, beer (43%) and RTDs (27%) are the drinks most favoured by New Zealand youth aged 12 – 24 years old. For females however, RTDs (41%) and spirits (24%) are the most popular. For the 15 – 17 year old group, nearly half (46%) of the drinks they consume are RTDs while RTDs make up 68% of the drinks consumed by 15 – 17 year old females. Forty four per cent of the drinks consumed by 12 – 14 year old females are RTDs.⁶⁵

Where drinking

Overall, youth drinkers aged 12 – 24 are most likely to drink at a friend or relative's house (39%) or at home (35%). Those aged 12-14 are more likely to report drinking at home (46%), 15-17 year olds are most likely to drink at a friend's or relative's house (53%) and 18 – 24 year olds are pretty evenly split between home and friends/relatives (39% compared with 35%).⁶⁶

should be consumed by males and four standard drinks for females. Drinking more than this amount on one drinking occasion is defined as drinking large amounts of alcohol by the report.

⁶² ALAC (2009) *ALAC Monitor: Youth*, p.12 and 10

⁶³ More than a third of youth drinkers (37%) report that they got drunk on their last drinking occasion while a quarter (25%) of youth drinkers reporting that they planned to get drunk on the last drinking occasion, *ibid*, p.9. The Alcohol use in New Zealand report states that "overall, 12.2% (8.9–15.4) of youth drinkers had consumed enough alcohol to feel drunk at least once a week in the last 12 months" p.45

⁶⁴ ALAC (2009) *ALAC Monitor: Youth*, p. 8 and 9.

⁶⁵ *ibid*, p.10 and 15

⁶⁶ *ibid*, p.10

Supply of alcohol

The most common sources of alcohol for youth drinkers aged 12 – 17 are parents/guardians and friends, although some of the New Zealand research differs on which source is predominant.⁶⁷ Three-quarters (75%) of parents with drinkers reported that *at least one parent* supplies their teen with alcohol. In addition, one quarter (24%) of parents reported that, as far as they knew, their teen also accessed alcohol from his or her friends. 21% of parents of teen drinkers reported that they had supplied alcohol when they were not present to supervise. In these circumstances, 30% provided four to five drinks, 30% provided six to ten drinks and 4% provided more than 10 drinks.⁶⁸

Significantly, a sizeable proportion of those aged 15-17 are much more likely to report that they get alcohol from friends who are aged 18 and over (34% compared with 13% of 12-14 year olds).⁶⁹

A surprising number of youth do purchase alcohol for themselves. This has been estimated by various surveys at between 6% and 15%⁷⁰. The most common place for youth to buy alcohol is the bottlestore⁷¹ and the incidence of youth drinkers being asked for identification is extremely variable.⁷²

⁶⁷ The Youth '07 report states that the "most common sources of alcohol for secondary students were their parents (54%) and friends (53%)" (Adolescent Health Research Group, (2008), op.cit, p.26) while according to the 2009 ALAC Youth Monitor "more than half (57%) of youth drinkers aged 12-17 report that they obtain their alcohol from parents or guardians. A further 28% of youth drinkers report that they obtain their alcohol from friends who are aged over 18 (p.37). In contrast, the Ministry of Health *Alcohol use in New Zealand* report states that "among youth drinkers, 62.5% had someone else purchase alcohol for them in the last 12 months. Overall, 37.9% of youth drinkers had parents purchase alcohol for them in the last 12 months. Another common source of alcohol supply for youths included friends, with 34.8% of youth drinkers having had friends purchase alcohol for them in the last 12 months (p.46).

⁶⁸ ALAC (2008) *Parental Attitudes and Behaviours Towards Teen Drinking, Survey of Parents of 12 – 17 Year Olds: Final Report*, Wellington: ALAC, p.8 and 9.

⁶⁹ ALAC (2009) *ALAC Monitor: Youth*, p.37.

⁷⁰ The Ministry of Health *Alcohol Use in New Zealand* report estimated 14.6% (p.47), the Adolescent Health Research Group *Alcohol and New Zealand Youth* report estimated 15% (p.3) and the 2009 ALAC Youth Monitor states that "while 6% of youth drinkers overall report that they had bought alcohol for themselves, binge drinkers are significantly more likely to report this (10% cf. 2% of moderate drinkers) (p.37).

⁷¹ 67% according to the Adolescent Health Research Group *Alcohol and New Zealand Youth* report (p.14).

⁷² According to the *Alcohol and New Zealand Youth* report "one-third of [secondary] students who buy their own alcohol are almost never asked for identification and nearly 46% are asked for identification infrequently (p.14). According to the Ministry of Health *Alcohol use in New Zealand* report, "overall, 95.9% of youth drinkers who had tried to purchase alcohol to take away in the last 12 months were successful at least once (p.48). Among youth who had tried to buy alcohol from wine shops and wholesalers in the last 12 months, 71.5% were asked for identification (ID) at least once in that time. Just over half of youth drinkers who had tried to purchase alcohol to take away from supermarkets or from hotel or tavern bottle stores in the last 12 months were asked for identification at least once. Among youth drinkers who had tried to purchase alcohol to take away in wine shops and wholesalers in the last 12 months, 65.7% were refused alcohol at least once. Over half of youth drinkers who had tried to enter or buy alcohol in a pub, bar or tavern in the last 12 months had been refused either entry or alcohol at least once (p.50).

Parental attitudes

Research indicates that most parents of teenage drinkers have a liberal attitude to their children consuming alcohol and few parents identify alcohol related issues as a concern⁷³. Most parents are accepting of their teenager drinking alcohol, at least (in most cases) in controlled situations where a parent is present. Only one quarter (23%) agreed that under 18 year olds should not drink alcohol at all.⁷⁴

About half of all parents with teen drinkers (49%) reported that they had recently, or were currently experiencing at least one issue or problem with their teenager and alcohol. The most common issues were drinking without adult supervision (25%) and teens drinking more than their parent feels is good for them (23%). Interestingly, parents who supplied alcohol to their teens were less likely than other parents to report any one of these issues.⁷⁵

OPTIONS TO ADDRESS YOUTH DRINKING: ALAC'S RESPONSE

Purchase/drinking age

Raising of minimum purchase age

The return of the minimum purchase age to 20 has been an ALAC policy for some time with the rationale set out in the current policy and other documents.⁷⁶ The ALAC position is based on a large body of evidence from New Zealand and overseas that shows that raising the minimum purchase/ legal drinking age can reduce youth drinking and alcohol-related harm while a lowering of the minimum purchase/legal drinking age has an opposite detrimental effect.⁷⁷

⁷³ According to the ALAC *Parental Attitudes and Behaviours Towards Teen Drinking* report (p.9) "On a top of mind basis only 7% of parents believed that alcohol related issues were the greatest concerns for parents of teens compared to drug related issues (24%), personal safety (19%) and peer pressure (13%). Even after all unprompted responses were considered, only 31% of parents reported alcohol related issues as a concern although this rated higher than all other issues except for drug related issues (47%)."

⁷⁴ *ibid*, p.10

⁷⁵ *ibid*, p.11 and 12

⁷⁶ ALAC (2002) *Policy: The Minimum Legal Age for Purchasing Alcohol* and ALAC (2005) *Submission to the Law and Order Select Committee on the Sale of Liquor (Youth Harm Reduction) Amendment Bill*, Wellington: ALAC, p.8 - 14

⁷⁷ For example, a review of 132 studies published between 1960 and 1999 found very strong evidence that changes in minimum drinking age laws can have substantial effects on youth drinking and alcohol-related harm, particularly road traffic accidents, often well after young people reached the legal drinking age (Wagenaar, A and Toomey, T (2002) 'Effects of Minimum Drinking Age Laws: Review and Analyses of the Literature From 1960 to 2000', *Journal of Studies on Alcohol*, vol.14, p.206-225). Many studies have found that raising the minimum legal drinking age from 18 to 21 years decreased single vehicle night time crashes involving young drivers by 11% to 16% at all levels of crash severity. Changes in the minimum drinking age are related to changes in other alcohol related injury admissions to hospitals and injury fatalities (Anderson, P. & Baumberg, B (2006) *Alcohol in Europe*, London: Institute of Alcohol Studies, p.265). Following the decrease in the minimum purchase age in NZ from 20 to 18, studies found increases in emergency department admissions for intoxication in 18 – 19 year-olds relative to people aged 20 years and older, an increase in the

ALAC research indicates that young people aged 14 – 18 years of age have experienced an increase in consumption since the purchase age was lowered in 1999.⁷⁸ Therefore, consumption increased at the lowered purchase age but also extended to younger age groups (the ‘halo’ or ‘trickle down’ effect)⁷⁹. Of particular concern is that a significant proportion of young drinkers aged 15 – 17, an age group that shows pronounced binge drinking behaviour, acquire alcohol from friends 18 years or over and this situation is “exacerbated by the fact that half the school students in year 13 will turn 18 during the school year ... [while] ... more students are staying for year 13 now”.⁸⁰

The increase in consumption since the purchase age was reduced in New Zealand has led to increased harm, both for 18 – 19 year olds and also for younger age groups. Everitt and Jones found increases in emergency department admissions for intoxication in 18 – 19-year olds relative to people aged 20 years and older. Guria and colleagues concluded that it was “highly likely that the law change resulted in an increase in the number of alcohol-involved crashes involving 15–17 year old drivers”. Kypri and colleagues found increases in traffic crash injury rates in both 18 – 19 and 15 – 17 age groups relative to 20 – 24 year olds. Huckle and colleagues found increases in drink driving and alcohol-related crashes among 18 – 19-year-olds, relative to 20 – 24-year-olds, and increases in disorder offences among 14 – 15-year olds.⁸¹

An increase in the purchase age from the current 18 years to 20 years would effectively target the ‘trickle down’ effect as 20 year olds are less likely to supply 15, 16 and 17 year olds, the age cohort that shows pronounced binge drinking behaviour. It is acknowledged that 20 year olds will supply 18 and 19 year olds, particularly when many of these age groups are living away from home for work or tertiary study.

Split purchase age

The *Alcohol in our lives* paper argues that there are three benefits of a split purchase age:

- The law would not exclude those aged 18 or 19 from purchasing alcohol. It would simply require that those purchases occur in the relatively supervised environment of on-licence premises.
- A split-age may encourage some young people to drink at on-licence premises earlier in the evening, rather than drinking large volumes of cheap alcohol from an off-licence before coming into town late at night (‘pre-loading’).
- Young teenagers are less likely to have friends that are at least 20 years of age, meaning that the supply of alcohol purchased from off-licences may reduce.

number of alcohol-involved crashes involving 15 – 17-year-old drivers, an increase in traffic crash injury rates involving 18 – 19-year-olds and 15 – 17-year-olds compared to 20 – 24-year olds and increases in drink-driving and alcohol-related crashes among 18 – 19-year-olds, relative to 20 – 24-year olds, and increases in disorder offences among 14 – 15-year olds (cited in Kypri, K and Langley, J (2006) ‘Splitting the alcohol purchase age: gambling with youth health’, *Drug and Alcohol Review*, vol. 25, p.293).

⁷⁸ ALAC (2002) op.cit, p.1

⁷⁹ ibid

⁸⁰ Law Commission (2009) op.cit

⁸¹ Cited in Kypri, K and Langley, J (2006) op.cit, p.293

However, *Alcohol in our lives* also recognises that there is a risk of creating uncertainty around the law and states that this would have to be managed accordingly.⁸²

Few jurisdictions seem to use a split purchase age as proposed by the Law Commission with Sweden the only European country to do so. As well there seems to be no research available on whether it is effective at reducing alcohol related harm.

In an editorial to the Drug and Alcohol Review in 2006 Kypri and Langley from the Injury Prevention Research Unit, University of Otago, state that “from our knowledge of the scientific literature, there is no evidence that a split age provision will reduce alcohol-related harm. In contrast, there is compelling evidence for an across the board age increase”. Further they argue that a split purchase age would present a major scientific challenge in terms of evaluation, given that if they occur at all, modest effects are relatively hard to quantify. Therefore, if there was a change to a split purchase age there is a high probability that it would not be possible to say whether the law change had had a positive impact after a period of time. They point out that such gambling with youth health is totally unacceptable.⁸³

*Minimum drinking age*⁸⁴

Evidence shows that regulating the availability of alcohol through a minimum legal drinking age (MLDA) or minimum purchase age is effective in reducing harmful use of alcohol across a wide range of drinking patterns and populations.⁸⁵

However, determining the optimal age for an MLDA is problematic due to the difficulties associated with determining a ‘safe’ age at which young people can begin to drink alcohol and the complex relationships between early onset of drinking and associated problems later in life.

⁸² Law Commission (2009) op.cit, p.152

⁸³ Kypri, K and Langley, J (2006) op.cit, p.294

⁸⁴ Approximately, 40 countries worldwide have a minimum legal drinking age. In some countries there are exemptions or special circumstances, which may affect the age of consumption. For example, in Norway, the type of alcohol purchased has relevance — beer and wine may be consumed at age 18; spirits at age 20. The majority of states in the United States (31 of 50 states) have laws that prohibit or limit the consumption of alcohol for those individuals under 21. In countries where no exceptions have been noted, 18 countries have minimum drinking ages of 18. Five have a national minimum drinking age of 21 (Chile, Egypt, Honduras, Russia and Samoa). Two have a minimum drinking age of 16 (Italy and Malta); and 1 country (Japan) has a minimum drinking age of 20. In Canada, where minimum drinking age laws are legislated by each province, three provinces set the consumption age at 18 and the others at 19. The national laws generally apply to drinking age limits for venues outside the home, such as taverns, bars, restaurants, nightclubs and similar establishments. Typically, these laws make no reference to alcohol consumption in the home. The United Kingdom is the only country that legislates a minimum consumption age in the home; they stipulate that alcohol may be consumed from age 5 with parental consent (International Centre for Alcohol Policies (2002) *Drinking Age Limits*, Washington: ICAP, p.1)

⁸⁵ WHO (2009) *Working document for developing a draft global strategy to reduce harmful use of alcohol*, Geneva: WHO, p.14

Research indicates strongly that maturation of the adolescent brain may be adversely affected by the consumption of alcohol.⁸⁶ Prior to the mid-20s, the human brain is still developing. It is thought that the use of a neurotoxin like alcohol in adolescence may disrupt important refinements that are occurring in the neural architecture of the brain during this period.⁸⁷ According to the Chief Medical Officers of England, Wales and Northern Ireland, “studies of young people have shown that significant changes in brain structure accompany heavy drinking that can affect motivation, reasoning, interpersonal interactions and other brain functions. In addition, heavy drinking during adolescence may affect normal brain functioning during adulthood. Young people who drink heavily may also experience adverse effects on the liver, bone, growth and endocrine development”.⁸⁸

Although the relationship between early onset of drinking by teenagers and later problems such as dependence is complex “there is strong evidence that the earlier in life a person starts drinking alcohol, the more likely he or she is to have alcohol-related problems throughout life, including repeated episodes of alcohol dependence, higher rates of injuries, and lower levels of academic and job achievement”.⁸⁹ For example, “individuals who initiate drinking before 15 years of age are four times as likely to develop alcohol dependence as are those who wait until 21 years of age; each additional year of delayed drinking reduces the likelihood of dependence by 14%. The adult alcohol use disorders that are rendered more likely by underage drinking are associated with serious health problems and substantial negative economic impact”.⁹⁰

After reviewing the latest evidence the Chief Medical Officers of England, Wales and Northern Ireland concluded that:

- “children and their parents and carers are advised that an alcohol-free childhood is the healthiest and best option. However, if children drink alcohol, it should not be until at least the age of 15 years

⁸⁶ For example, U.S. Department of Health and Human Services (2007) *The Surgeon General's Call to Action To Prevent and Reduce Underage Drinking*, Washington DC: U.S. Department of Health and Human Services, Office of the Surgeon General, p.25; Lubman, D et al (2007) ‘Substance use and the adolescent brain: A toxic combination?’, *Journal of Psychopharmacology*, vol.21, p.793; Masten, A et al (2008) ‘Underage Drinking: A Developmental Framework’, *Pediatrics*, vol.121, p. S237 – 238

⁸⁷ Ward B & Snow P (2008) ‘The role of families in preventing alcohol-related harm among young people’, *Prevention Research Quarterly*, p.3

⁸⁸ Department of Health (2009) *Draft Guidance on the Consumption of Alcohol by Children and Young People from the Chief Medical Officers of England, Wales and Northern Ireland*, London: Department of Health, p.17

⁸⁹ Imm, P et al (2007) *Preventing Underage Drinking: Using Getting To Outcomes™ with the SAMHSA Strategic Prevention Framework to Achieve Results*, Santa Monica: Rand Corporation, p.1. Also, see Bellis, M et al (2007) ‘Predictors of risky alcohol consumption in schoolchildren and their implications for preventing alcohol related harm’, *Substance Abuse Treatment, Prevention and Policy*, vol. 2, no. 15, p.2; Plant, M and Miller, P (2007) ‘Being ‘Taught to Drink’. UK Teenagers’ Experience’ in Jarvinen, R and Room, R (eds) *Youth Drinking Cultures: European Experiences*, p.140

⁹⁰ Spoth, R et al (2008) ‘Preventive Interventions Addressing Underage Drinking: State of the Evidence and Steps Toward Public Health Impact’, *Pediatrics*, p.S312

- parents and young people should be aware that drinking, even at age 15 or older, can be hazardous to health and that not drinking is the healthiest option for young people. If 15 to 17 year olds do consume alcohol they should do so infrequently and certainly on no more than one day a week”.⁹¹

The recent Australian guidelines go further stating that “for children and young people under 18 years of age, not drinking alcohol is the safest option”. They point out that “children under 15 years of age are at the greatest risk of harm from drinking and that for this age group, not drinking alcohol is especially important”. For young people aged 15 – 17 years the guidelines recommend that “the safest option is to delay the initiation of drinking for as long as possible”.⁹²

Given the difficulty of determining an age at which to set a legal drinking age, the risk of damage to young people’s health and associated problems throughout life such as dependency and the recent guidance from Australia and the United Kingdom, ALAC does not advocate for a minimum drinking age. Further as *Alcohol in our lives* points out, there are other potential problems with a minimum drinking age such as the risk of “criminalising youth, creating a disincentive for them to seek help (for example, in cases of alcohol poisoning or dependence, or a party that has become out of control) and potential difficulties in enforcing the law in private places”.⁹³

Require mandatory age verifications for the sale of alcohol

Given that the effectiveness of a minimum purchase age law “depends both on the intensity of the enforcement and on the degree to which people are aware of the policy and enforcement”⁹⁴, ALAC supports the requirement for mandatory age verification for those who look 25 years or younger when purchasing alcohol. To support this, introducing a nationally recognised and tamper-proof system of age identification “would help bar staff identify underage drinkers, assist legal drinkers of youthful appearance to be served, help the Police enforce the Act and assist in the prosecution of licensees and bar staff providing minors with alcohol”.⁹⁵

Individual and parental responsibility for young people’s drinking options

Offence for adult supply of alcohol to a young person without parental consent

Alcohol in our lives provides no evidence to support the proposed options while little evidence has been found of similar provisions being used in overseas jurisdictions. An exception is New South Wales in Australia where it is now an offence to supply alcohol to minors in a private home without the direct approval of a parent or guardian. This has often been referred to as the ‘New South Wales secondary supply law’. While the impact of this law on youth drinking is not yet known, this legislation has been welcomed by

⁹¹ Department of Health (2009) op.cit, p.16 and 21

⁹² National Health and Medical Research Council (2009) *Australian Guidelines to Reduce Health Risks from Drinking Alcohol*, Canberra: NHMRC, p.4

⁹³ Law Commission (2009) op.cit, p.152

⁹⁴ Kirby, S (2005) ‘Changing the Minimum Purchase Age – Reflections on the New Zealand experience’, *Paper to “Thinking Drinking: Achieving Cultural Change by 2020”* Melbourne February 2005, p.5.

⁹⁵ ALAC (2005) op.cit, p.18-19

advocates against alcohol-related harm and there is intensive lobbying to support the introduction of similar legislation in other Australian states.⁹⁶

ALAC, in a submission to the Justice and Electoral Committee in April 2009, supported the proposed amendment to the Summary Offences Act in the SOLLE Bill to make it an offence for an adult to supply liquor to a young person without the consent of the parent/guardian. The submission states that “it seems a matter of principle that parents should be able to have recourse to the law if their son or daughter is supplied alcohol without their consent. We envisage that prosecutions under this law will be infrequent, and primarily in cases where intoxication or harm have occurred”. The submission also points out that the amendment should also apply to under 18 teenagers who may supply alcohol to same-aged peers or younger people.⁹⁷

ALAC supports the parental consent option but recommend that it be an offence for any person to supply alcohol to a young person under 18 without the consent of a parent or guardian of the young person. This would provide a further legal measure to target the supply of alcohol to young people aged 15, 16 and 17 by older suppliers but would also include young people under 18 supplying each other. It would also give parents/guardians recourse to the law if their child is supplied alcohol without their consent while providing discretion for parents or guardians to supply alcohol to their child/ren. Specifying a young person as under 18 avoids the difficulties associated with gaining consent when 18 or 19 year olds living away from home are supplied by older drinkers.

Adult supervision

The Law Commission proposes that adult suppliers should be required to supervise the consumption of alcohol that they provide to under 18 year olds. Although most parents supervise their teenagers' consumption of alcohol an ALAC parental survey has found that 21 percent of parents of teen drinkers reported that they had supplied alcohol when they were not present to supervise. Given that a significant minority of parents are not supervising the consumption of alcohol that they provide to under 18 year olds, ALAC supports the Law Commission proposal regarding adult supervision but recommends that it apply to *any person* supplying alcohol to a young person under 18 to make it consistent with the parental consent option above. The combination of parental consent and supervision will cover those situations where a young person aged 17 or 18 for example, supplies alcohol to a 15 or 16 year old – the consent of the younger person's parent or guardian would be required before supply could legally take place and the older teenager would be responsible for supervising the drinking of the younger.

⁹⁶ This provision was passed by the NSW Parliament in 2007. Cited in Ward B & Snow P (2008) op.cit, p.7 and referred to in National Preventative Health Taskforce (2009) *Australia: the Healthiest country by 2020 - Technical Report 3, Preventing alcohol-related harm in Australia: a window of opportunity*, Canberra: National Preventative Health Taskforce, p.22

⁹⁷ ALAC (2009) *Submission to the Justice and Electoral Committee on the Sale and Supply of Liquor and Liquor Enforcement Bill*, p.9.

Other measures to reduce harm from youth drinking

As well as the options for legislative change suggested by the Law Commission there are other interventions, both regulatory and non-regulatory that can help to reduce the harm from youth drinking.

Overall, the research indicates that:

- strategic measures, such as alcohol taxation, that are directed at the general population can have a significant impact on the problems associated with youth drinking
- given that alcohol use in the social and physical environment is omnipresent, no one measure, such as raising the minimum purchase age, will be successful. Instead what is needed is an integrated, self-reinforcing set of interventions that target youth drinking within the context of wider interventions that target the general social and physical drinking environment.

APPENDIX 4 : ROAD TRAUMA

Drinking alcohol, even in small amounts, impairs our actions and judgement.⁹⁸ When we drink, we make decisions we wouldn't normally make, and we're unable to respond to situations as quickly as we'd like.

Drinking alcohol increases a person's chances of being involved in a car crash. New Zealand's legal BAC limits are high by international standards. The World Health Organisation recommends a legal BAC limit of 50mg/100ml for adults and a zero BAC for young people. A legal BAC of 80mg/100ml sends a message that it is okay to drink and drive. We know that the risk of harm occurring, particularly when driving, starts well before the current 80mg/100ml threshold. There is clear evidence of an increase in risk as blood alcohol levels increase, and the effect is much more pronounced in young drivers.⁹⁹

So while those drink drivers with very high BAC levels (in excess of 80mg/100ml) do create the most harm, having a BAC of between 50mg/100ml and 80mg/100ml also carries a high risk of harm when compared with someone who has a zero BAC. Not only will a lower legal BAC reduce the number of alcohol-related road crashes occurring for drivers with a BAC of between 50mg and 80mg/100ml, research has shown that it will reduce road crashes for drivers at the full range of BAC levels. Research indicates that there have been significant decreases in the number of fatal collisions, serious collisions and single-vehicle collisions in those overseas countries with a 50mg/100ml BAC limit compared with the number of these types of collisions occurring when the BAC limit in these jurisdictions was 80mg/100ml as it is currently in New Zealand.¹⁰⁰

Not only will a lowered legal BAC limit reduce alcohol-related road crashes, but it will also send a message about the other harm associated with excessive drinking. It is likely to reduce the incidence of heavy drinking and to moderate our drinking patterns. There is strong overseas evidence that zero tolerance laws among 18-20 year olds reduces heavy per occasion consumption drinking (five or more drinks at one sitting) by males by about 13%.¹⁰¹

The Ministry of Transport's *Safer Journeys* discussion document provides further useful supporting information on blood alcohol content limits.

⁹⁸ Keall, M et al (2004) 'The influence of alcohol, age and the number of passengers on the night-time risk of driver injury in New Zealand', *Accident Analysis and Prevention*, vol.36, no.1, p.49-61

⁹⁹ *ibid*

¹⁰⁰ Frith, B and Strachan, G (2002) 'Road Safety Impact of Establishing Blood Alcohol Concentration Levels at 0.05' *Road Safety Handbook*, vol.1, p.30

¹⁰¹ Carpenter, C (2004) 'How do Zero Tolerance Driving Laws work?', *Journal of Health Economics*, vol.23, no.1, p.61-83

APPENDIX 5 : TREATMENT

The options that the Law Commission has proposed for consultation purposes are presented below, along with ALAC's responses.

a) *No change*

This option is not viable because of the poor access to effective treatment currently available to those in need.

b) *Provide centres for temporary supervision for individuals who are not charged with an offence but pose a significant concern to their own or others' safety or health*

This option requires further investigation to ensure what is proposed and provided meets the needs of the individuals concerned rather than merely temporarily hiding the problem for one night at a time. NZ Police and the Ministry of Health are working on a joint initiative to keep acutely intoxicated people safe overnight. ALAC believes the review of Alcoholism and Drug Addiction Act 1966 needs to be completed. This review should propose support for whānau and concerned others to help those who pose a significant concern to their own wellbeing or the wellbeing of others into treatment.

c) *Require the need for alcohol and other drug assessment and treatment to be taken into account during sentencing in cases where alcohol and other drugs may have contributed to the offending*

ALAC supports this option, as it has the potential to reduce recidivism.

d) *Develop the workforce to ensure assessment, referral and brief interventions can be delivered by appropriate professionals across sectors (for example, primary care, mental health, emergency departments, justice, corrections, education, Work and Income, ACC)*

ALAC supports this option. This is a high priority especially in primary health settings where the evidence is strong that simple brief interventions work to reduce hazardous consumption.

e) *Investigate the range of alcohol-specific treatment interventions provided, with a view to determining gap areas (for example, alcohol detoxification and nationally consistent drink driving group interventions) with the potential to increase funding via the alcohol levy managed through the Alcohol Advisory Council of New Zealand*

As stated in our substantive submission above, although ALAC is not the appropriate agency to be the recipient of increased funding for treatment services via the alcohol levy, ALAC is keen to play a more active role in monitoring and providing advice on alcohol and other drug service provision and funding. ALAC proposes to support the development of a comprehensive alcohol treatment plan, to be led by the Mental Health Commission and supported by ALAC, that will be based on a number of high-priority and best practice principles including that:

- brief early interventions and alcohol treatments should be provided in primary health settings
- family-inclusive practice and well-validated age and culturally appropriate services need to be increased.

f) *Fund primary care providers to deliver screening, brief interventions and referral to specialist treatment*

ALAC supports this option as a high priority. Alcohol interventions need to be integrated into general practice. Simple brief interventions need to be delivered as part of normal consultations. Referral to the Helpline is likely to support intervention and take some of the pressure off secondary services.

g) *Investigate the feasibility of using electronic screening and brief interventions in a range of settings*

ALAC is already committed to trialling this in universities, and has developed an electronic self-help resource for 18-30 year olds. ALAC supports this option.

h) *Monitor the prevalence of alcohol use disorders, and the delivery of screening, brief interventions, and referrals in primary care and emergency departments*

Data about the prevalence of alcohol-related presentations needs to be gathered at a number of entry points, including emergency departments, new patients in primary health settings, and fetal alcohol spectrum disorders. ALAC recommends that data be collected, and simple brief interventions take place, in relation to specific presenting conditions such as injury relating to falls or car crashes, assault (including domestic), child abuse/neglect, cardiovascular, depression, other mental health issues, and stomach problems.

APPENDIX 6: SUPPORTING MANAGEMENT STRUCTURES AND TOOLS

Title and object of the Act

We believe that the purpose of the liquor legislation should be an unambiguous focus on reducing alcohol-related harm. The title “Sale of Liquor Act” does not convey this. A title such as “Alcohol Harm Reduction Act” would be preferable.

The object of the current Sale of Liquor Act is contained in a brief statement about the legislation contributing to a “reduction of liquor abuse”. The term ‘liquor abuse’ can carry an association with alcoholism, and as such it is a rather old-fashioned and narrow term. We recommend amending this phrase to ‘reducing alcohol-related harm’, which is a commonly used and understood term across the alcohol sector, and would provide a convenient ‘short-hand’ expression to sum up the basic, overall objective of the Act.

In addition, we support the Law Commission’s proposal to include a list of specific objectives. Similar expressions are found in the liquor laws of other jurisdictions similar to our own (e.g. the United Kingdom, New South Wales and Canada) and they work well in fully articulating the purpose of liquor legislation and setting the stage for local policies which can aim for the same objectives.

Licensing and enforcement issues

Liquor Licensing Authority

ALAC supports a structure where there is a specialist body to administer liquor licensing at a local level with the support of an overarching authority to assist with hearing cases that cannot be decided locally. We also support enhancing the powers of the LLA.

The LLA could have more of a role in supporting the administration of licence databases, making these easily available to statutory agency staff from around New Zealand (e.g. managers, total database of licensed premises) etc. They could also host a database of LLA decisions and have more capacity to provide advice and lend support to areas working on or with alcohol plans or policies.

District Licensing Agencies and the local licensing system

The Office of the Auditor-General’s 2007 performance audit also found wide variations in the processes and performance of the DLAs it audited. To ALAC it appears that there are areas in New Zealand with effective, well-run models and staff, such as the graduated response model in Counties Manukau, co-location in Northland and other partnership approaches such as that in the Waikato. However, the performance of DLAs varies significantly around the country.

We agree with the Commission’s suggestions as follows:

- Local authorities should be permitted to keep the fines imposed as a result of their prosecutions.
- Inspectors employed by the DLA should receive mandatory training.

- The level of fees set for the issuing of licences should be sufficient to ensure that the DLAs can properly perform their functions, including enforcement.
- The decisions of the DLAs should be independent of the council itself.

While there is always going to be a need for flexibility in the resources that local councils can devote to liquor licensing due to varying needs from place to place, there is always a crucial need for capability and training. The right skill-set is a critical success factor, not only for licensing inspectors but also for councillors, chief executives and officials with responsibilities regarding liquor licensing.

There needs to be a formal qualification and standard for licensing inspectors, to try and achieve a standard approach. They could then be warranted by the LLA. Such a standard would be similar to that of Ministry of Health designated officers on such matters as Smoke-free Environments Act enforcement.

To address the concerns about independence and impartiality, we believe consideration should be given to revising the local liquor licensing system with a view to creating more separation of powers, or partial separation. There are three levels of responsibility at the local level:

- policy-setting
- licence decision-making (assessing and renewing applications)
- monitoring and enforcement (inspectors).

Elected council members should oversee the development of local alcohol policies. With regard to licence decision-making, we agree that this function is best carried out by council officials who know the local scene, and that the licence decision-making function should operate independently of elected council members.

With regard to monitoring and enforcement, we see merit in investigating alternative lines of accountability for inspectors. Other sectors could be looked to for models where there are local or regional employees reporting to a central agency, such as the Coroner's system, the Department of Internal Affairs' system for gambling inspectors, and officers within Public Health Units.

Fee structure

ALAC agrees that the fee structure should be enhanced to better reflect actual costs and relative harm. Anecdotal reports by representatives of the New Zealand Liquor Licensing Inspectors Institute and Local Government New Zealand suggest that, on average, only about 50% of licence fees covers enforcement costs. Prosecution costs can be quite high, especially where legal costs are involved and/or when cases go to appeal. For example, the Waiuku Cosmopolitan Club case (referred to above) cost the Franklin District Council over \$20,000 in prosecution costs. Therefore ALAC prefers an option where there is a graduated licence fee structure to reflect the risk posed to the community by the relevant licence, determined by criteria such as type of licence, size of premises, and volume of sales.

Alcohol in our lives also suggests that detailed elements on licence renewal could be streamlined and simplified. For example, premises that pose a low risk to the community could be exempt from the renewal process, which should reduce compliance costs. We agree, as this could create efficiencies, but with the

provisos that such premises should continue to be monitored to ensure continued compliance, and that the licensing inspector, DLA, Police or Medical Officer of Health should be able to request a renewal process at any time. This matter could also be the subject of local alcohol policies.

Enforcement

The Law Commission proposes a number of measures to enhance efforts to enforce the law. These include:

- providing a member of the Police at or above the rank of Inspector with the power to immediately close particular on-licence premises to prevent breaches of the law
- reviewing the penalties for serious offences under the Sale of Liquor Act with a view to increasing them
- providing for an increased range of infringement notices for technical and minor breaches of the Act or a licence condition
- providing a statutory process in the Act for the development and recognition of alcohol accords, thereby excluding these accords from the provisions of the Commerce Act 1986.

ALAC would support any review of penalties and enforcement tools that seeks to ensure the Police and the LLA have adequate rights and powers to undertake their jobs effectively and efficiently.

Importantly, consideration also needs to be given to increasing the use of penalties as a deterrent for breaches, including the cancellation of licences for serious or repeat offences. We know from a scan of LLA decisions that serving people to intoxication, supply to minors and excessive noise problems are common issues for on-licence premises. We also know that supply to minors is a particular problem for off-licence premises. Yet many of these offenders do not lose their licences as a result of being caught and convicted of a fundamental breach of the licence. In some cases we know that repeat offenders have still not lost their licence despite being caught three times for supplying alcohol to minors. ALAC believes there should be consistent enforcement on issues such as supply to a minor.

New technology and initiatives

The current licensing regime does not appear to provide adequately for new technology or initiatives. This is clearly demonstrated in some of the LLA decisions¹⁰² and the difficulty in effectively controlling and monitoring new technology and initiatives. For example, the sighting of age identification is particularly problematic for internet sales and although we know of some good practice by liquor retailers selling over the internet, this is not the case for all retailers involved in internet sales. ALAC would like to see some provision in the new Act for compulsory sighting of identification on delivery of alcohol sold through the internet.

We are also concerned about the use of 'party buses' which are not addressed under the Act, and are often reported as ferrying busloads of intoxicated people from one place to another, creating issues for the receiving premises and the community.

¹⁰² See the decisions of *Cellarsoft Ltd*, LLA PH 427/2002; and *Floravin Limited*, LLA PH 1430/2008

We note that issues with new technology and new initiatives are not discussed in any detail in *Alcohol in our lives*. Further thought is required on how these types of initiatives and future advancements can be effectively controlled, monitored and enforced under the new legislation.

Alcohol in public places

Public drinking events can range from peaceful gatherings at which families picnic on a beach reserve and drink alcohol with their meal, to riots resulting in arrests. Where negative effects do occur, significant harm and costs can result. These range from vandalism, negative impacts on businesses, noise, violence and disorder, to perceptions of lack of safety in some areas and normalisation of the abuse of alcohol.

When liquor bans initially began, they were largely in place for New Year's Eve, Guy Fawkes, or special events. However, now more of the territorial authorities' liquor bans operate permanently. In 2005, 64% of the councils' bans were permanent, 24 hours a day/seven days per week (24/7) liquor bans; while in 2009, 71% of the councils with bans have at least one 24/7 liquor ban area. The areas covered by liquor bans also vary from the central business districts (CBDs) only, to far-reaching boundaries. Some boundaries for liquor bans have expanded significantly over time.¹⁰³

Evidence on the specific effectiveness of liquor bans in New Zealand is inconclusive due to the difficulty of evaluating their effectiveness in isolation from other measures that are commonly employed at the same time (e.g. improvement of lighting and monitoring of public places using CCTV) and the limitations of police data that is commonly used to evaluate effectiveness.¹⁰⁴ For example, an evaluation of the Wellington City Liquor Control Bylaw found that there was "no evidence ... that the liquor ban has contributed to less inner city crime, such as violence, disorder or wilful damage"¹⁰⁵ while other areas have reported decreases in crime following the implementation of a liquor ban. Evidence from overseas is similarly inconclusive.¹⁰⁶

¹⁰³ ALAC (2005) *Liquor Bans in New Zealand*, Wellington: ALAC, p.4

¹⁰⁴ There are issues with Police data relating to the data source, what is and is not included and Police discretion. Data can also be skewed by the use of targeted operations, the style of policing and the increased Police presence following the implementation of most liquor bans. Further, data is often from a variety of Police databases and is used both to prove the need for a ban in a particular area and to evaluate its success (ALAC (2005) op.cit, p.6)

¹⁰⁵ Sim M et al (2005) *Wellington City Council Liquor Control Bylaw Evaluation Report*, Wellington: New Zealand Police, p.3

¹⁰⁶ Policies that limit where drinking can take place are fairly common throughout the world. In North America, drinking is prohibited in most public areas other than licensed premises while in Western Europe, it is estimated that 60% of countries ban alcohol consumption in public areas such as parks and streets. In Australia, partial or complete liquor bans operate in many state and territory capitals such as Melbourne, Sydney, Darwin, Brisbane, Perth and Hobart (Webb, M et al (2004) *Banning the Bottle: Liquor Bans in New Zealand*, Conference paper, Alice Springs, Australia, p.1). In the UK for example, evaluations of two London Controlled Drinking Zones (CDZ, but officially named Designated Public Place Orders, DPPOs) had differing results. A CDZ allows police powers to confiscate alcohol or request a person who is causing a problem to stop drinking in a public place designated by the local authority. It is not a ban on public drinking. A near borough-wide CDZ in the London borough of Southwark led to an overall reduction of 27% in street drinking levels while in Lewisham a CDZ was initially used significantly and reduced street drinking disorder, but became ineffective over time (Ranzetta Consulting (2008) *Southwark's*

Benefits ascribed to the implementation of liquor bans are as follows:

- reduction in crime (e.g. an evaluation of an Auckland City liquor ban stated that the ban contributed to a 35% drop in disorder and assault-related offences and a drop in other public place alcohol-related offending¹⁰⁷)
- improved perceptions of safety (e.g. the evaluation of the Wellington City Council Liquor Control Bylaw reported increased perceptions of safety)¹⁰⁸
- reduction in environmental harm such as reduced litter and vandalism (e.g. the Timaru District Council reported that since the implementation of the liquor ban in the city centre intentional damage of council property (for example smashed planter boxes and broken trees) had reduced by between 75 and 90%, saving the council at least \$15,000 annually)¹⁰⁹
- ability for police to arrest people where bylaw breaches are detected. This power to arrest and remove troublemakers from hot spots and to physically take them to the local police station for processing is seen by police as “probably the critical factor in being able to ‘nip alcohol-related problems in the bud’ before they begin to escalate”.¹¹⁰

Research also indicates the following characteristics of liquor bans that are deemed to be successful:

- the effectiveness of police and other regulatory authorities’ enforcement approaches, as well as other complementary strategies that may be introduced alongside the ban¹¹¹
- a community partnership approach between police, local authorities, health agencies and often formal liquor accords or liquor liaison groups¹¹².

There are a number of specific problems associated with liquor bans. These include the following:

- There is a great deal of variation around New Zealand in the use of liquor bans, which makes it difficult for members of the public to know what the situation is in a particular place, at a particular time.
- The process of developing bylaws is expensive, since they have to be advertised and go through a special consultative procedure.

Designated Public Place Order: an evaluation of effectiveness and the implications for addressing problematic drinking in public places, London: Ranzetta Consulting, p.1-2 & Ranzetta Consulting (2009) *Summary of key Controlled Drinking Zone (CDZ) evaluations*, London: Ranzetta Consulting, p.1-2

¹⁰⁷ Sim, M et al (2005) op.cit, p.16

¹⁰⁸ *ibid*, p.44

¹⁰⁹ Prior to the implementation of the liquor ban and security cameras being installed intentional damage was costing the Council around \$20,000 per year (Timaru Herald (2005) *Inner City Crime is Down*, Timaru: Timaru Herald, p.1)

¹¹⁰ Webb, M et al (2004) op.cit, p.3

¹¹¹ Sim, M et al (2005) op.cit, p.17. The Wellington City Council Statement of Proposal Liquor Control Bylaw 2008 stated that “in 2007 Police statistics showed that violent offending relating to alcohol consumption decreased when enforcement of the Bylaw increased” (Wellington City Council (2008) *Statement of Proposal Liquor Control Bylaw 2008*, Council Minutes, 27 March, Appendix 3, Wellington: WCC, p.11).

¹¹² Webb, M et al (2004) op.cit, p.9

- There is no nationally consistent policing approach and the style of liquor ban enforcement appears to differ markedly throughout New Zealand.
- Different groups of people are treated differently as police apply their ability to use discretion. For example, they may turn a blind eye to a picnic on the beach but not to the same beverages being consumed by a group of young people or street drinkers.
- Liquor control bylaws are often responsible for the displacement of problems into surrounding areas and there is potential for public drinkers themselves to be put at increased risk due to gathering in less safe areas, such as unlit parks
- The increased use of liquor bans has translated into increased apprehensions for liquor ban offences. Each of these incidents consumes considerable amounts of police time and diverts resources away from other crime as well as having a flow-on effect on the courts and Department of Corrections.¹¹³

We note that the Law Commission has proposed the following options that relate to the regulation of drinking in a public place:

- a. continue the status quo, where liquor bans are dealt with by way of local authority bylaws
- b. place no restrictions on drinking in a public place
- c. reintroduce the offence of being drunk in a public place
- d. create an offence of drinking in a public place.

ALAC acknowledges that the need to regulate drinking in public places and imposing liquor bans, while having some specific problems, do seem to have had some success in reducing crime and environmental harm and improving perceptions of safety in some areas, while councils find them essential to maintain order and a sense of amenity, especially in CBDs where there are clusters of licensed premises. Further, the Police consider that liquor bans are an important tool in the crime prevention and community safety toolkit and they are generally popular with the wider community.¹¹⁴

It is considered that the following aspects of liquor bans could be improved:

- The definition of public place requires clarification as it currently does not include areas such as supermarket car parks.
- There needs to be consistency within a liquor ban area (e.g. currently, there can be variations among different recreational parks).
- Signage and information sources should be improved (e.g. liquor ban signage could generally be improved, while areas and information could be available on a website)

¹¹³ For the years 2000 – 2002 the number of convictions for breaching liquor ban bylaws increased from 307 to 1036 while the proportion of cases where the person had not been convicted of another offence rose from 38% in 2000 to 51% in 2002. In these years most of the people convicted were between 18 – 24 years old, around 88% were male, about 65% NZ European and around 30% Māori (ibid, p.13)

¹¹⁴ ALAC (2005) op.cit, p.5

However, liquor ban bylaws and other forms of regulation should not be used alone, but as part of a broader strategic approach that targets the wider impact of alcohol use and misuse in the community and the issues that lead to that misuse in addition to targeting problematic public drinking. Such policies should be developed in consultation with communities to support them to reduce alcohol-related harm. This would include the council working with other partners with an interest in reducing alcohol-related harm such as police, public health, ACC, local community agencies etc. A fair and open consultative approach to bylaw-making and other regulation by local authorities will help ensure that local authorities are more responsive to wider community concerns.

The Law Commission option of making it an offence to consume alcohol in any public place would avoid confusion about where and when people can and cannot drink and would be more cost effective for councils as the special consultative procedure is expensive.

However, it would curtail individual freedom for those who drink responsibly in public and do not create disorder. Given that the practical consequence of liquor bans appears to be the elimination of public drinking where it contributes to trouble, rather than to reduce the use of public places as uncontrolled drinking environments¹¹⁵, it is suggested that making it an offence to consume alcohol in a public place will unreasonably restrict the freedom of law-abiding New Zealanders. It is also likely that there would be a strong public reaction against such a proposal.

Further, such an offence would increase the enforcement burden on the Police and there would likely be increased criminalisation of young people aged 18-24 years of age.

Although ALAC would certainly like to see this aspect of New Zealand's current drinking culture change, there is a lack of evidence that an offence for being drunk in a public place would be effective in reducing public drunkenness. It would also increase the burden on both the police and the courts, and serve only to criminally convict people who may really need assistance, support and appropriate treatment. Prior to 1981 when the offence of being drunk in a public place was repealed, there was a considerable amount of time, expense and resources expended in processing drunk people through the courts with only small penalties imposed. We consider that the current provisions in law for disorderly or offensive behaviour and the ability for Police to detain intoxicated people in order to drive them home, take them to a temporary shelter, or, as a last resort, take them to a police station, remain the appropriate powers.

Types of product available, content, size and packaging

The options the Law Commission has proposed that relate to the types of products available at off-licence premises are:

- a. No change to the types of products available at off-licence premises
- 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.

¹¹⁵ ALAC (2005) op.cit, p.4

Although option c. above would be the most desirable from an alcohol harm reduction perspective, it is extremely unlikely that such an option would be publicly acceptable.

Further liberalisation (option b.) to enable supermarkets and grocery stores to sell spirits and spirit-based drinks such as RTDs would be extremely undesirable, leading to cheaper spirits and spirit-based products because of heavy discounting. This is likely to lead to greater alcohol related harm, particularly for young people due to the particularly heavy competition in the RTD market.

ALAC supports the status quo (option a). Given that the New Zealand public is very likely to consider that option c. is unacceptable, option a. is effectively holding the line against further liberalisation.

Other options proposed by the Law Commission that relate to the types of products available are:

- a. Provide a regulatory power to prohibit the sale of undesirable liquor products based on expert recommendations to the Minister
- b. Allow the licensing decision-maker to restrict the type of alcohol products able to be sold as a condition of the licence.

As we have stated in our substantive submission above, all alcohol products can be harmful if they are misused. Products that are arguably more potentially harmful than others include those that are designed or marketed for quick consumption (e.g. shots or slammers), those with high-alcohol content plus a sweet taste (e.g. some RTDs), and those with very high-alcohol content, such as Absinthe. In the event that a high risk product with an unusually high alcohol content was introduced to the New Zealand market it would be useful to have a legislative mechanism available to enable it to be banned. This would enable potentially harmful factors in new alcohol product developments to be addressed in a timely and precautionary way. Legislation in New South Wales in Australia allows regulations to be made to ban undesirable alcohol products. Therefore it is suggested that ALAC support the provision of a regulatory power to prohibit the sale of undesirable liquor products based on expert recommendations to the Minister (option a).

Option b. would allow the licensing decision-maker (LLA or DLA) to restrict the type of alcohol products able to be sold as a condition of the licence. We prefer option a., as there would be difficulties with expecting DLAs to determine which licensees and what types of licences should be able to sell the different types of products. Rather than this being a regional issue, it is one more appropriately dealt with at a national level. We also note that the LLA and DLAs can already impose conditions on late-opening bars to not serve shots and slammers after a certain time.

Further options suggested by the Law Commission (some of which are related to and very similar to the above) are as follows, along with our response:

a) *No change to product labelling and serving size requirements*

We support the current mandatory requirements for labelling of alcohol content and standard drinks. This is a matter of consumer information. Consumers have a right to know what they are buying. Currently it is mandatory for alcohol products to display the percentage alcohol volume and the numbers of standard drinks. Other than for RTDs, there is no requirement to list ingredients, although some beers and wines do so voluntarily. ALAC supports measures to limit the alcohol content of ready-to-

drinks and the size of single-serve containers, and supports the mandatory labelling of health advice recommending that pregnant women not consume alcohol.

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

This option is similar to the earlier option to provide a regulatory power to prohibit the sale of undesirable liquor products on the basis of expert recommendations to the Minister. We believe these two options should be merged, so as to provide for a regulatory power to prohibit the sale of undesirable liquor products, or products of specified alcohol content or size, based on expert recommendation to the Minister. This would enable a timely and precautionary response to new alcohol product developments.

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

As a general principle, standard measures and controls on pouring are useful because consumers become familiar with what to expect and it makes planning their night out easier, particularly in relation to drink driving.

d) *Require health warning labels on alcohol products*

ALAC applied to FSANZ for mandatory labelling of health advice recommending that pregnant women not consume alcohol. While acknowledging the lack of evidence for alcohol advisory labels, there is clear evidence that most pregnant women abstain or cut down their alcohol if they believe that alcohol consumption risks the health of their unborn child. Mandatory health advisory labels regarding pregnancy would add a credible voice which would strengthen cultural norms around the use of alcohol during pregnancy.

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

The Food Standards currently regulate ingredients. ALAC is not best placed to advise on nutritional information. This option would provide consumers with more information, although it is unlikely to result in a reduction in alcohol-related harm. In the past, the industry has argued against having a requirement to label ingredients because it would be too difficult to determine what to label, as some ingredients added at the beginning of the fermentation process are not present at the end of the process. Currently, only ready-to-drinks are required to have ingredients shown on the label. However, we note that some fermented products have the ingredients listed voluntarily, especially if the brand value is about the purity of the product.

Ready-to-drinks

We note that the Law Commission does not propose any specific option or intervention for RTDs, but that *“Possibly, there is a case for allowing the Minister, on the recommendation of an expert committee, to ban certain products for health reasons.”* ALAC supports the consideration of evidence with respect to RTDs to be part of the proposed regulatory power for the Minister.

The RTD Producers Group has introduced a self-regulation standard of no more than 10% abv (alcohol by volume) or two standard drinks per single-serve container. In 2008 the Ministerial Committee on Drugs Policy (during the former Government’s term), asked them to consider a standard of 7% abv or 1.5 standard

drinks per container. ALAC supported this position. Not all RTD producers subscribe to the self-regulation standard. We are aware, for instance, of a Jim Beam Bourbon and Cola product in a 640ml container, which is 2.5 standard drinks (Jim Beam is marketed by Maxxium which is not a member of the RTD Producers Group).

There is a new, small market in pre-mixed cocktails at 14% abv. These currently seemed to be aimed at the premium end of the market, but future developments may see cheaper versions appear on the market.

Trends in RTDs can be predicted by looking at trends in the market for non-alcoholic soft drinks. The trend is towards larger single serve containers, to such an extent that at some point of purchase, only large-size containers may be found (500 to 700 mls). When the energy drink 'Mother' came onto the market, it was immediately popular due to its large size and value for money, which forced other energy-drink producers to also produce a large-size container.

To prevent a similar market dynamic eventuating in the RTD market, we support the Law Commission's option to provide a regulatory power to regulate content and size. The objection to this may be that it would add a compliance cost. This objection may be valid with regard to fermented beverages, but we do not accept it in regard to RTDs which are 'designer products' because they are precisely engineered rather than produced using a natural fermentation process. There may be some support for a mandatory standard from some producers, because it would set a level playing field and take the onus off them to self-regulate in the face of competitors who do not take part in the self-regulatory scheme.

Alcoholic energy drinks

Drinking alcohol with stimulants, such as caffeine and guarana, can result in "wide-awake drunks" who perceive that they are safe to drive (for instance) when in fact they are dangerously impaired. The majority of such drinks in New Zealand are consumed on on-licence premises. New Zealand has a mandatory maximum Food Standard limit on the amount of caffeine or guarana permitted in packaged drinks (except if labeled 'dietary supplement'). Caffeine and guarana are being marketed in dairies as a dietary supplement, and we have anecdotal evidence of teenagers purchasing these products and combining them with alcohol. The regulation of caffeine and guarana are outside of ALAC's purview. So long as alcoholic energy drinks are not allowed to be labelled 'dietary supplements', we believe the current Food Standard control is sufficient. We do not recommend prohibiting all caffeine in alcoholic drinks because it could cause a substitution effect towards stronger stimulants, including party pills with very high amounts of caffeine and/or guarana.