

READY-TO-DRINK BEVERAGES – POLICY PAPER

PURPOSE OF THE PAPER

1. This paper was developed in response to concerns regarding ready-to-drink beverages and assesses the evidence and implications of a selection of potential policy options targeted at ready-to-drink beverages. The analysis within this paper was presented and considered at the 2 September 2008 Ministerial Committee on Drugs (MCDP). The minutes from that meeting are also available on the NDP website (URL: [http://www.ndp.govt.nz/moh.nsf/pagescm/559/\\$File/mcdp-minutes-2sep08.pdf](http://www.ndp.govt.nz/moh.nsf/pagescm/559/$File/mcdp-minutes-2sep08.pdf))
2. This paper considers:
 - Evidence of effectiveness from international experiences of targeted taxes on ready-to-drink beverages (RTDs).
 - Legal advice on the feasibility of minimum pricing on RTDs and all alcoholic beverages in New Zealand and a review of international experiences of minimum price policies in Canada and Scotland.
 - Voluntary industry initiatives to address alcohol-related harm from RTDs, including international experiences.

BACKGROUND

3. At the MCDP meeting of 4 August 2008, the MCDP considered issues relating to RTDs, availability and price of alcohol in supermarkets and alcohol excise tax. The Inter-Agency Committee on Drug's (IACD) preferred option is not to target RTDs but to focus on the role of excise tax and pricing for alcohol beverages as a whole. Evidence strongly supports the use of excise tax as an effective strategy to reduce alcohol-related harm, insofar as excise tax influences alcohol price.
4. The Ministry of Health supports the approach that alcohol excise tax should be linked to absolute alcohol by volume with a single rate and that this rate should be regularly reviewed. ALAC also favours restructuring the excise tax regime to an un-banded volumetric system that is based on alcohol content.
5. The Ministry of Health supports raising the threshold under which no excise tax duty is imposed from 1.15 percent to 2.5 percent. Reducing or removing excise tax duty on low alcohol beverages, would incentivise the production of a wider range of low-alcohol beverages and if passed on to consumers in the form of lower prices, may encourage a shift in consumption from higher to lower alcohol products.
6. Cabinet has agreed to the Terms of Reference for the Law Commission review for the regulatory framework for the sale and supply of liquor [CAB Min (08) 30/8]. The agreed Terms of Reference will deal explicitly with a number of issues, including the influence of excise tax on alcohol and how pricing policies can minimise harm from alcohol consumption. It would be timely to consider the above issues (in paragraph 3) in the forthcoming Law Commission review.
7. The draft National Alcohol Action Plan currently being consulted on contains an action that the alcohol excise tax regime be reviewed as necessary to ensure that it aligns with the overall goal of reducing alcohol-related harm. If agreed by Cabinet, such a

review could include consideration of how the excise tax regime can most effectively minimise alcohol-related harms from RTDs. Cabinet has agreed that the Law Commission will work with officials conducting this review to avoid any duplication of work, and to ensure that the two reviews proceed in a complimentary manner [CAB Min (08) 30/8]. Furthermore, the Ministry of Health and the Accident Compensation Corporation have funded research to estimate the costs of alcohol and other drug related harm. A better understanding of these costs will assist in determining how well the excise tax system reflects the costs of alcohol-related harm.

8. In light of the current opportunities to review alcohol excise tax, the IACD considers that while RTDs may be an issue, focusing on RTDs as the issue to address binge drinking among young people may not necessarily be the most effective approach to take. A targeted tax on RTDs is likely to create incentives to substitute other cheaper alcohol rather than necessarily reducing overall consumption. While it is uncertain that such a substitution effect would occur or how an excise tax increase would impact on price, IACD recommends that MCDP continue addressing the wider environment in which all alcohol products are viewed and consumed by young people.
9. The IACD will continue to keep a watching brief on the effectiveness of targeted RTD taxes implemented internationally, particularly in Australia, and will update the MCDP as appropriate.

DISCUSSION

10. The following discussion section comprises of three separate parts to provide the information requested by the MCDP:
 - Part 1: International experiences of a targeted RTD tax
 - Part 2: Minimum Price Policy
 - Part 3: Voluntary industry initiatives to address alcohol-related harm from RTDs

Part 1: International experiences of a targeted RTD tax

11. In recent years RTD excise taxes have been increased in Australia, Germany, Switzerland, Denmark, France, the United Kingdom, and Ireland. In the United States of America, the state of California plans to introduce an increased tax on RTDs on 1 October 2008. The Netherlands and Finland are also currently considering proposals to increase the tax rate on RTDs (Rosen & Simon, 2007).
12. In Australia, the United Kingdom, Ireland, and California the increased tax was or will be implemented through raising the tax on RTDs to the same tax rate as for distilled spirits. In Switzerland, Germany, and Denmark it was increased by creating a targeted tax rate for RTDs.

The impact on RTD consumption

13. Australia, Germany, Switzerland, the United Kingdom and Ireland have all reported a subsequent decrease in the consumption of RTDs following the tax increase. In Germany and Switzerland, where a targeted RTD tax rate was introduced, RTD consumption decreased 75 and 70 percent respectively in the following year. In Australia and the United Kingdom, where RTDs taxes were raised to the same rate as spirits, RTD consumption decreased by approximately 30 percent.
14. While it should be acknowledged that measurement differences may exist between the countries, these figures suggest introducing targeted RTD taxes has a greater impact

on RTD consumption than aligning RTD tax levels to that of spirits. This finding is consistent with research on general tax increases, which have found the greater the tax increase, assuming it results in higher prices, the larger the impact on consumption (Wagenaar, Salois, & Komro, Draft Report). Introducing a specific tax for RTDs, allows tax rates to be set at a higher level than if they are aligned to the tax rate for spirits. In both Switzerland and Germany the targeted RTD tax is set at a higher rate than for spirits. In Switzerland, the RTD tax rate is four times that of spirits (Rosen & Simon, 2007).

The impact on overall alcohol consumption

15. There has been very little evaluation of the impact RTD tax increases have on overall alcohol consumption. Where evaluations have occurred the findings are mixed, but suggest a substitution effect occurs with consumers switching to cheaper forms of alcohol.
16. In Germany, the year following the targeted spirits-based RTD tax, it was reported there was no substitution effect (Rosen & Simon, 2007); inferring the decreased RTD consumption resulted in an overall decrease in alcohol consumption. However, a subsequent study carried out by the German Federal Centre for Health Education (BZgA) found that after a decline in the consumption of alcopops and alcohol generally in 2004 and 2005, alcohol consumption among teenagers was beginning to increase (German Federal Center for Health Education, 2007). The study noted that the increase in alcohol consumption is attributable to the increase of the consumption of other types of drinks, such as beer, mixed drinks that contain beer or wine, and spirits (German Federal Center for Health Education, 2007).
17. In Australia, while it is too soon to evaluate the impact of the increased tax, the Distilled Spirits Industry Council of Australia and Taxation Office have expressed differing views as to whether the RTD tax has resulted in an increase or decrease in overall alcohol consumption. It should be noted that in Australia, while the tax change has been introduced, the supporting legislation has yet to be approved by the Senate and media reports have questioned the likelihood of this occurring.
18. In Ireland, following the tax change, the quantity of spirits consumed (in litres), which includes alcopops, reduced approximately 20 percent from 2002 to 2003 (Considine, 2008). In terms of the overall amount of alcohol consumed there was a decrease of approximately 1.5 percent. However, the degree to which this was the result of the RTD tax is unclear, as from 2002 to 2003 there was not only a decrease in spirit consumption, but also a decrease in beer consumption. Both cider and perry, and wine consumption increased during that period. In 2004, the overall amount of alcohol consumed increased, a similar trend to what occurred in Germany.
19. Supporting the finding that a substitution effect occurs as a result of targeted RTD taxes, research on the effectiveness of general tax increases has found 'a rise in the price (e.g. from a higher tax) of one form of alcohol relative to other forms will lead to switches to the cheaper forms of alcohol, without necessarily much reduction in overall drinking' (Easton, personal communication).

The impact on youth alcohol consumption

20. Even though the rationale for targeting RTDs is generally based on concerns around their appeal to youth, there has been very little evaluation of the impact of targeted RTD taxes on youth drinking levels. The only research focusing on youth drinking occurred in Germany, where after the tax increase, RTD consumption went down by

half among teenagers. However, as mentioned above, alcohol consumption by teenagers was then reported as increasing, particularly among 16 and 17 year old males (German Federal Center for Health Education, 2007).

21. Overall, international experience demonstrates an increase in RTD tax rates does led to a decrease in RTD consumption; however, the evidence also suggests this decrease is often offset by consumers substituting RTDs with cheaper alcohol forms. To date no research has evaluated the effectiveness of targeted RTD taxes in reducing alcohol related harm.

Part 2: Minimum Price Policy

22. In general, increasing the price of alcohol is one of the most effective strategies to reduce the consumption of alcohol and therefore alcohol related harm (Barbor, 2003). Minimum pricing could be an effective way to prevent loss leading promotions favoured by off-licences and supermarkets.
23. A minimum price floor has some advantages over an excise tax increase. While an excise tax increase usually produces an overall price increase, the full cost of an excise tax increase is not always passed on to consumers, as some of it is absorbed by producers, retailers and the hospitality industry. Moreover, it does not prevent deep discounting and loss leading.
24. Also, research by Gruenewald et al (2006) pointed to the fact that consumers have some autonomy over the price they pay for alcohol. In response to price increases (and especially in a highly diversified market like New Zealand), consumers may choose a cheaper brand, or switch from on-licence drinking to private drinking (possibly "front-loading" before going out at night, as has been observed in New Zealand).
25. Researchers using Swedish data to assess the relationship between alcohol prices, quality and sales argued price increases targeted at lower quality beverages result in a greater reduction in alcohol consumption than flat price increases or price increases for higher quality beverages.
26. The conclusion is that while excise tax increases do still produce benefits in terms of price increases and consequent reductions in excessive alcohol consumption, the impact is increasingly blunted by the effects discussed above. In comparison, a minimum price policy (if successfully implemented) would directly impact on young or heavy drinkers who are more likely to purchase cheaper beverages while not impacting on moderate drinkers who are more likely to purchase premium brands.
27. One potential negative effect that should also be considered is the likelihood of minimum pricing resulting in a higher profit margin for retailers on these products. It is possible that retailers may then use some of these profits to raise the level of promotion of products in order to try and counter the impact of the higher price.
28. As with taxes, a minimum pricing policy could be specifically applied to RTDs. However, if a minimum price was set for RTDs, a substitution effect, where cheaper alcohol beverages are purchased and consumed, is a likely risk, a similar consequence as proposed for a targeted RTD tax. Also, as implementing a minimum price policy would require initial set-up costs for industry and Government, applying minimum prices across all alcohol products is likely to be more effective than incurring the set up costs when only RTD consumption is impacted. A minimum price floor for alcohol would be transparent and fair across industry sectors.

29. Further research and policy work is required to ascertain if a minimum price floor would be cost-effective to implement in New Zealand. It should be noted that in the UK, where alcohol prices have become very low, the potential for a minimum price floor to produce benefits may be greater than in New Zealand where excise tax rates have kept up with inflation. ALAC is planning to commission some economic modelling on various price policy options, including minimum price. This work will help to inform price policy directions for New Zealand. Any assessment of the cost-effectiveness of minimum pricing would need to ensure it considered the costs associated with implementation and enforcement.
30. If minimum pricing is found to be cost effective in New Zealand, further consideration will need to be given to whether a minimum price should be based on serving size (such as in Canada - see below) or on alcohol content. The Scottish Government considers that establishing a direct link between minimum price and the alcoholic strength of the product is considered to be the most effective means of encouraging a reduction in consumption. If an alternative approach were to be taken, such as establishing prices for different product categories, this could create an unhelpful incentive for producers to develop new products with a high alcohol volume. Consideration will also need to be given as to whether a price regime would be enforced across on-, off- and club licences and the economic and market impacts.

Summary of legal advice on minimum price in New Zealand

31. The Ministry of Health obtained legal advice on the feasibility of imposing a minimum price on alcoholic beverages using the Sale of Liquor Act 1989, and possible inconsistencies with other legislation such as the Commerce Act 1986.
32. Current New Zealand law does not provide for a price adjustment regime. The Sale of Liquor Act 1989 could be amended to impose a minimum price regime either for all alcoholic beverages or specifically on RTDs. The Ministry of Justice administers the Sale of Liquor Act 1989 and would therefore be responsible for any legislative changes for a minimum pricing policy.
33. The Sale and Supply of Liquor and Liquor Enforcement Bill currently before the House does not address this issue; however, it could be an issue considered by the Law Commission as part of the comprehensive review of the sale of liquor laws.
34. While a minimum price policy would not legally infringe on the Commerce Act, it may frustrate the purpose of the Commerce Act. Any legislative provision for alcohol minimum pricing would need to override the specific legislative regime that controls trade practices, price fixing and anti-competitive forces.
35. There is nothing in the Sale of Goods Act 1908 that would prevent the application of a minimum price for all alcoholic beverages as the purpose of this Act is to protect the consumer in relation to the buying of goods.

International experiences for minimum pricing across all alcohol beverages

36. It appears that a minimum price policy targeting RTDs has not been implemented internationally. However, minimum pricing for all alcohol products, to varying levels, has been introduced in seven of the thirteen jurisdictions within Canada. Scotland and the UK Government are also examining minimum pricing on all alcohol products as a possible strategy to reduce alcohol-related harm.

37. There is no evidence to date on whether the minimum alcohol prices introduced in Canada have had a positive impact on reducing alcohol consumption or alcohol related harm. Therefore, international experience does not provide any guidance on whether introducing minimum prices is likely to be effective in New Zealand.
38. If New Zealand did decide to introduce minimum pricing, the experiences in Canada and Scotland could provide some guidance on the different implementation options.
39. It should be noted that Canada's commercial environment for alcohol differs from New Zealand's, as it tends to have more state-run monopolies. Where applied, minimum prices are generally implemented for alcohol sold in government and private liquor stores (where these are permitted) and also to alcohol brought into Canada from other countries (Stockwell, Leng, & Sturge, 2006). In Ontario, Canada, Regulations for minimum pricing are only directed at on-licence premises. These regulations are based on serving size, defined by volume and type, as opposed to alcohol content.
40. The Scottish Government is considering setting a minimum retail price at which a unit of alcohol can be sold *in addition to taxation* as means of reducing alcohol consumption and alcohol-related harm. Fixing minimum drinks prices is possible under both UK and EU competition law, provided that minimum prices are imposed on licensees by law or a public authority (Scottish Health Action on Alcohol Problems, 2007).
41. The Scottish Government's consultation document proposes that minimum retail pricing could form the basis of a Scottish Alcohol Duty structure should the Scottish Government assume responsibility for taxation (The Scottish Government, 2008). The document considers that the following principles should form part of any minimum pricing scheme:
 - The scheme should apply equally to all premises selling alcohol.
 - Price should be determined with reference to the alcoholic strength of the product rather than other factors, such as type of product.
 - Minimum prices should be set independently of those connected either directly or indirectly with the manufacture, retail, supply or distribution of alcohol products or any other connected activity.
 - It should be straightforward to vary the levels at which prices are set.
42. These principles could be used as a good basis for any policy work in New Zealand. It is considered that any minimum pricing policy work should proceed on the basis that the policies would be applied to all alcoholic beverages (not just RTDs), to all premises selling alcohol, and be based on alcohol content.

Part 3: Voluntary industry initiatives to address alcohol-related harm from RTDs

43. The New Zealand RTD Producers' Group have proposed options for voluntary industry initiatives to address the harms from RTDs that they would be willing to adopt. The voluntary Industry initiatives include:
 - Limiting RTDs to a maximum of two standard drinks;
 - Ceasing production of RTDs of more than 10 percent aabv;
 - Adopt and abide by a code of naming, packaging and promotion of liquor;
 - Work with Food Standards Australia New Zealand to ensure alcohol products containing caffeine are subject to the same rules as caffeinated beverages;
 - Improve standard drink labelling and reference to the ALAC website.

44. An analysis of the implications of the five options is outlined below including comment on international experiences with voluntary initiatives targeted at RTDs where relevant. An additional option on limiting the sugar content of RTDs that was not proposed by the RTD Producers' Group is also examined but not recommended. A letter addressed to the RTD Producers' Group from the Chair of the MCDP, which reflects the comments below is attached for MCDP approval.

Limit RTDs to a maximum of two standard drinks

45. Currently, there are no controls limiting the number of standard drinks within a single RTD. Beer and wine both have natural controls on the amount of alcohol they contain, as their taste becomes impaired if the alcohol content is raised too high. In contrast, RTDs can be engineered to mask the taste of higher levels of alcohol; for example, by adding sweeteners and flavourings. It therefore, seems reasonable that some sort of control be applied to RTDs to prevent the alcoholic levels per serve becoming too high.
46. The two standards drinks per RTD beverage suggested by the RTD Producers' Group may be considered relatively high compared to the 1.3 standard drinks in a 330 ml bottle of beer (at 5 percent aabv). A more appropriate limit on RTDs is considered to be 1.5 standard drinks, on the grounds that it is more in line with other types of alcoholic drinks. It is understood that Australian authorities have also considered this as a voluntary limit.

Cease production of RTDs of more than 10 percent aabv

47. Critics of the alcohol industry consider the drinks industry could do much more to improve the drinking culture through product development and marketing, in particular, through the development of low- and non-alcoholic drinks (Baggot, 2006). According to New Zealand producers of RTDs, 65% of RTDs contain 5 percent absolute alcohol by volume (aabv) with only two percent of RTDs containing 12 percent aabv. It would therefore seem that ceasing the production of RTDs of more than 10 percent aabv would not make a significant difference to the alcohol content of RTDs already marketed.
48. In Australia, two major beer producers (Lion Nathan and Foster's Group) announced that they would stop producing RTDs with high alcohol content, in response to community concern about these products. Fosters Australia has voluntarily limited its RTDs' alcohol strength to 7% aabv.

Regulate the level of caffeine in RTDs

49. Many RTDs contain energy-additives, such as caffeine and/or guarana (guarana is a natural source of caffeine). Bourbon and colas are the most popular type of RTD. Pulse is the fastest-growing RTD and has 7% alcohol (vodka) combined with flavoured soda and guarana. 'Wild Red Bull' (a mix of Red Bull and vodka) is also a very popular alcoholic energy drink, particularly in night clubs.
50. Although research is limited, available evidence suggests that energy-additive RTDs can mask the intoxicating effects of alcohol and therefore increase the risk of alcohol-related harm. Young people are particularly vulnerable to increased problems from ingesting these products, since they are more likely than adults to take risks and to suffer high rates of acute alcohol problems, including alcohol-related traffic accidents, violence, sexual assault, and suicide (Simon & Mosher, 2007).

51. It may be useful to have mandated advisory statements on the maximum daily intake of caffeinated alcoholic beverages warning about the dangers to children, pregnant and breastfeeding women who consume these products. However, it should be noted that Food Standards Australia New Zealand (FSANZ) is still considering the issue of warnings on the risks of alcohol consumption in similar situations.
52. In addition, any restrictions to the level of caffeine allowed in RTDs would need to consider possible substitution effects. For example, a large reduction in caffeine levels may cause clubbers to switch to caffeine pills and other stimulants.
53. In Australia, two major beer producers (Lion Nathan and Foster's Group) announced that they would stop producing RTDs with energy additives, except for the caffeine in the current cola products.

Adopt and abide by a code of naming, packaging and promotion of liquor

54. With such a young core consumer base, energy drink marketing focuses on youth themes and strategies (Simon & Mosher., 2007). Some promotions of RTD brands have also been questionable with regard to having appeal to minors. A prime example is the Jim Beam sponsorship advertising at the Vodafone X-Air games held on the Wellington waterfront, which seemed to target teenage boys. There are new brands of RTDs with names such as 'Diesel', 'Turbo' and 'Rebel'. Some advertisers are highlighting the alcoholic strength of their product, which runs counter to the current Code for Advertising Liquor rule that "liquor advertisements shall not emphasise a product's alcoholic strength, except where the product is a light alcohol product."
55. The Advertising Standards Authority, which is an independent organisation responsible for the self-regulation of alcohol advertising, is developing a new code to cover the naming, labelling, packaging and sales promotion of liquor products. The proposed Code will cover RTDs. The Code would be administered by the Advertising Standards Authority and would involve a complaints procedure. In addition, the regulation of the code is about to be reinforced by legislative proposals, contained in the Sale and Supply of Liquor Enforcement Bill, for a system of enforced self-regulation for alcohol advertising.

Improve standard drink labelling and reference to the ALAC website

56. The alcohol industry tend to prefer interventions that seek to educate or inform people about alcohol (Baggott, 2006). However, there is little evidence to suggest that standard drink labels alone have an impact on drinking behaviour (Andrews, 1995; Grube & Nygaard, 2001; Agostinelli & Grube, 2002 cited in Baggott, 2006). Improving standard drink labelling, when taken as part of a package of other initiatives, would seem a logical way to assist people to make informed decisions on their level of alcohol consumption.
57. ALAC does not support the proposal to reference the ALAC website on drink labels, but would be happy to provide feedback on any website developed providing consumer information about alcohol use. However, while websites may provide valuable information, it is considered that advisory messages on drink labels are likely to have a more immediate impact.

Sugar content of RTDs

58. At the 4 August MCDP meeting, the option to limit the sugar content or impose a 'sugar tax' on RTDs and similar beverages was raised. The Ministry of Health has

previously explored this option but has not recommended the approach. Decreasing the sugar content of RTDs would make them less sweet and therefore intuitively less accessible to a younger palate. However, there is a risk that producers would switch to using artificial sweeteners instead of sugar, mitigating any potential benefits associated with making these beverages less palatable for younger drinkers. In addition, some beers and wines have sugar added as well and it would be difficult to regulate their sugar levels. A further implementation difficulty, is the fact RTDs, like other alcoholic beverages, do not currently require nutrition information labels.

59. In summary, the suggested voluntary actions proposed by the RTD Producers' Group do appear likely to make a positive impact on alcohol related harm in New Zealand. However, two of the options (reducing the maximum standard drinks to two and abv to no more than 10 percent) are not considered to go far enough to drive significant change. This paper has suggested a reduction in the figures proposed by the RTD Producers' Group. Therefore, if the RTD Producers' Group do not agree with the suggested changes, or they are not complied with, the Ministerial Committee may want to consider mandatory options of enforcement.

REFERENCES

Andrews J C. 1995. Effectiveness of alcohol warning labels: A review and extension. *American Behavioral Scientist* 38: 622-32.

Babor T, Caetano R, Casswell S, Edwards G, Giesbretch N, Graham K, Grube J, Gruenewald P, Hill L, Holder H, Homel R, Osterberg E, Rehm J, Room R, Rossow I. 2003. *Alcohol: No ordinary commodity: Research and public policy*. Oxford: Oxford University Press.

Baggot R. 2006. *Alcohol strategy and the drinks industry: A partnership for prevention?* York: Joseph Roundtree Foundation.

Considine J. 2008. *Public sector economics* Example Bank. URL: <http://www.palgrave.com/economics/tresch/example/pdfs/Example%2018.1%20Taxation%20and%20Alcohol%20Sales.pdf> Accessed 12 August 2008

German Federal Center for Health Education. 2007. *Alcohol consumption by teenagers in Germany – 2004 to 2007*. Cologne: German Federal Center for Health Education.

Grube J W and Nygaard P. 2001. Adolescent drinking and alcohol policy. *Contemporary Drug Problems* 28: 87-131.

Gruenewald P J, Ponicki W R, Holder H D, and Romelsjo A. 2006. Alcohol process, beverage quality, and the demand for alcohol: Quality substitutions and price elasticities. *Alcoholism: Clinical and Experimental Research* 30 (1): 96-105.

Rosen S and Simon M. 2007. *The cost of alcopops to youth and California*. California: Marin Institute.

Scottish Health Action on Alcohol Problems. 2007. *Alcohol: Price, policy, and public health: Report of the findings of the expert workshop on price convened by SHAAP*. Scotland: Scottish Health Action on Alcohol Problems.

Simon M and Mosher J. 2007. *Alcohol, energy drinks, and youth: A dangerous mix*. California: Marin Institute

Stockwell T, Leng J, Sturge J. 2006. *Alcohol pricing and public health in Canada: Issues and opportunities*. British Columbia, Canada: Centre for Addictions Research of BC, University of Victoria.

The Scottish Government. 2008. *Changing Scotland's relationship with alcohol: a discussion paper on our strategic approach*. Edinburgh: The Scottish Government.

Wagenaar A C, Salois M J and Komro K A. Draft Report. *Effects of beverage alcohol price and tax levels on drinking: A meta-analysis*. Presented at the Eighth Annual International Campbell Collaboration Colloquium Vancouver, British Columbia, Canada. 12-14 May 2008.