



INDEPENDENT LIQUOR (NZ) LTD

FORUM SUBMISSION ALCOHOL ADVERTISING & SPONSORSHIP

- A) RESTRICTIONS ON ALCOHOL ADVERTISING AND SPONSORSHIP

- B) THE INDEPENDENT LIQUOR (NZ) EXPERIENCE/
RTD'S

- C) ALCOHOL CONSUMPTION

(April 2014)

A) Further restrictions on alcohol sponsorship and advertising

Independent Liquor does not support further restrictions on alcohol sponsorship and advertising over and above the measures currently in place to restrict alcohol related harm.

Why?

Two simple reasons.

- 1) The current system is working well at the moment.
- 2) We have yet to see any sound evidence, either from NZ or world-wide that further restrictions on advertising or sponsorship will have any impact on alcohol-related harm.

The current system

- (i) No system is perfect but all indications are that that the current system works very well. It is a self-regulatory system which works well as, rather than have authorities police its potential breaches, these are done by competitors. A much more robust and effective process.
- (ii) The current system involves pre-vetting which can save time and money for those participating. Tightening of the rules and allowing more pre-vetting would also add value as would any process to speed up decisions.
- (iii) Independent Liquor NZ has signed up to the ASA Code of Advertising and Promotion of Alcohol. Over the years we have had robust internal and external discussions over the outcomes of the self-regulatory model. At times we have been taken to task and we win some and lose some.

We live with the process and support it as it is independent and very robust. We are also part of an incredibly competitive industry whereby we know we will be regularly challenged by competitors on our advertising and marketing and do the same to them. This process keeps participants sharp and well aware of the boundaries. There is no way that any Government agency could have anywhere near as much close oversight as that provided by an incredibly competitive market.

- (iv) As well the rules are continually under review to match society's expectation. The recent Sale and Supply of Alcohol Act enabled new regulations restricting advertising and marketing of alcohol and the industry moved quickly to take these on board. Again any supposed breaches are quickly pointed out by competitors.

- (v) On top of the central Government requirements, the new legislation also enabled local communities to develop Local Alcohol Policies which can provide further rules and regulations on the way alcohol can be advertised in each region.

In summary we believe the current self-regulatory system is robust, very well policed, subject to regular review and backed up by community LAP's.

Impact of further restrictions?

- (i) Everyone agrees with sensible measures that are proven to reduce alcohol related harm but the case has not been made in regard to restrictions on advertising or sponsorship.
- (ii) The link between alcohol price and consumption has been extensively evaluated over the years and nearly all evidence supports the view that higher pricing can have the most impact on reducing harm.

In NZ the concept of extra taxes and/ or the introduction of a minimum pricing regime has been evaluated but not supported by the Government. It is not the role of this submission to question why the Government made this call, but it is **important to point out that it isn't great public policy to opt for an untried and unproven option, such as restricting advertising, just because a proven alternative was deemed unacceptable.**

- (iii) Studies in NZ and overseas have not been able to create a direct link between advertising restrictions and decreases in alcohol consumption. Without this link any action taken can only really appeal to the emotions of the anti-alcohol lobby rather than common sense.

Unintended Consequences

We believe that it is important to be cautious before taking precipitate public policy action in an area such regulating the alcohol market as often unintended consequences mean the intended result creates further problems. Here are some examples.

1) The Anderton 'Sherry' tax

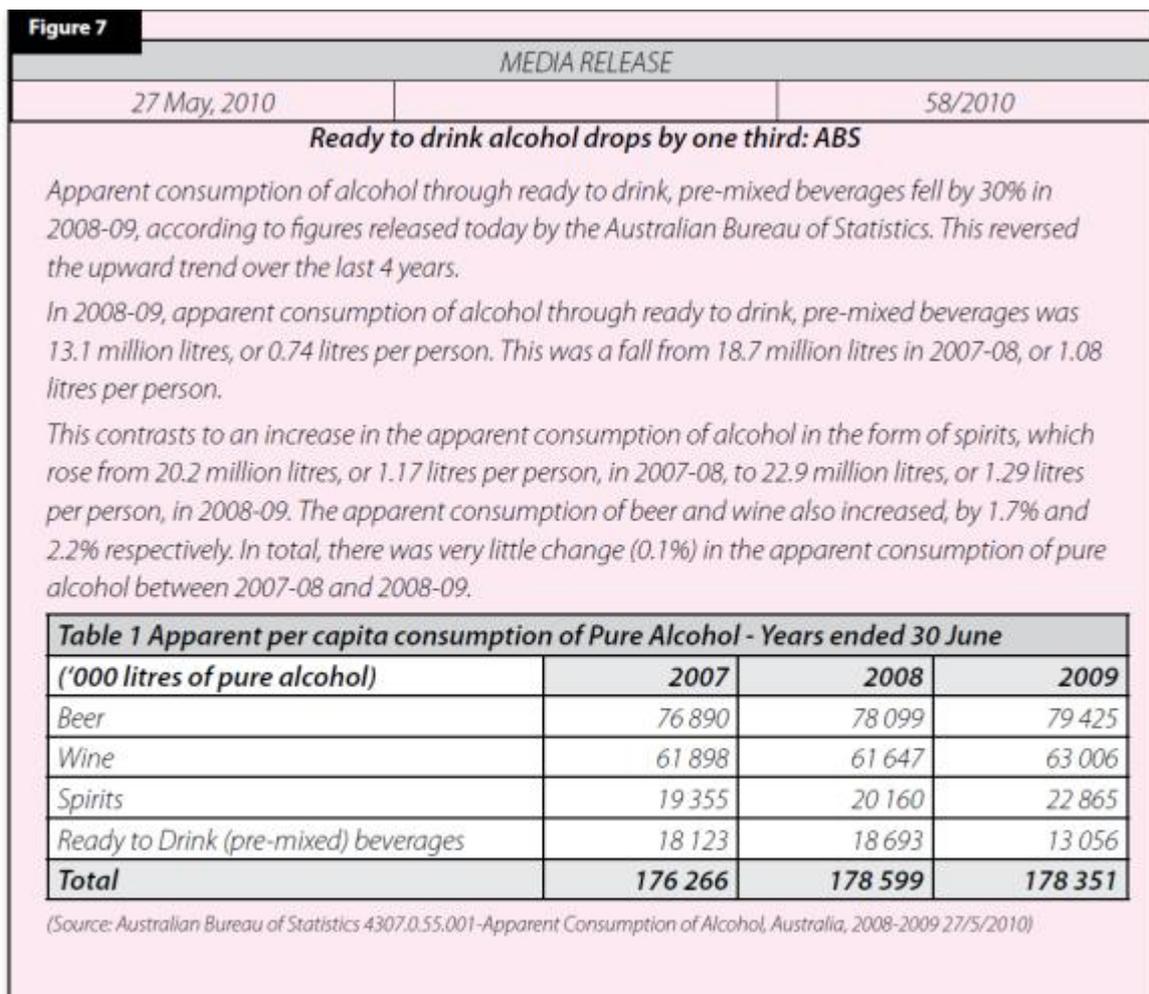
In an attempt to restrict the sale of mid-strength spirits Minister Jim Anderton imposed an increased tax in May 2003. The ill-judged move hit sherry drinkers, an unintended consequence. It also led to a 45% drop in the sale of mid-strength spirits, **balanced by a substantial increase in the sale of full strength spirits, RTD's , wine and even beer.**

Overall no impact at all on alcohol related harm and a price hit for senior citizens on their sherry.

- 2) The second example of ill-judged government action occurred in Australia. In a move to target RTD's in 2008 the Australian Government introduced a 70% increase in excise levied on RTD's in an attempt to address binge drinking, particularly amongst young people.

1) Substitution - The Australian Experience

- In April 2008, the Australian Government introduced a 70% increase in the excise levied on RTDs, in an attempt to address binge drinking, particularly amongst young people.
- The immediate result of the tax rise was drinkers substituted other forms of alcohol for RTDs, most notably straight spirits. RTD consumption declined by 30% but consumers instead bought more spirits in order to mix their own drinks, as shown by the leap in spirits sales.
- Here are the official figures released by the Australian Bureau of Statistics in May 2010:



INDEPENDENT Liquor

The RTD tax situation in Australia has led to adverts like that shown in Figure 8 where hard spirits are offered in combination with free mixers such as Coca Cola. These types of adverts have only come about since the RTD tax was imposed.



Figure 8

2) The Views of the NZ Ministry of Health

- A 2008 NZ Ministry of Health paper looked at the effectiveness of targeted taxes on RTDs that other countries had imposed. As was obvious with the Australian experience, the taxes other countries imposed all had an immediate impact on the consumption of RTDs but again substitution into other forms of alcohol was noted.

The impact on overall alcohol consumption

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.

B) Independent Liquor experience/ RTD's

Independent Liquor NZ is NZ's largest producer of RTD's. As some RTD's are popular with younger drinkers, as a company we have to be extremely cautious and careful in both our advertising and sponsorship to ensure that we abide by the ASA code and act as a very responsible corporate citizen.

INDEPENDENT **Liquor**

Unknown to most people the average drinker profile of the vast minority of our brands is a 30 year old tradesman living in West Auckland. The public perception still remains with some, however that we supply cheap oversweet end high alcohol soft drinks to teenagers.

In fact all RTD's are low in alcohol, being at best 5 – 7% ABV which is substantially lower than the 13 – 14% levels of wine. RTD's are also expensive per standard drink which is how many younger drinkers determine their buying choice.

RTD's are low in alcohol compared to wine, and also spirits at 37 to 40 percent.

Independent Liquor rigorously applies the ASA rules via the liquor Advertising Pre vetting system to all aspects of its marketing. Advertising agencies are briefed to only submit campaigns that meet LAPS rules, the marketing staff only develop campaigns that meet LAPS rules and before release each campaign is formally run past the LAPS adjudicator for an independent and formal sign off.

Independent Liquor Sports Sponsorship

Many rugby league fans are in the 30 to 40 year old kiwi blokes demographic who enjoy Woodstock bourbon and cola as well as beer. Independent worked closely with Duco events and through them the police to deliver a highly successful sponsorship which was praised for its good public order and family entertainment experience. This event saw alcohol sponsorship contribute positively to a good family day out.

The Auckland 9's, a successful sponsorship outcome for ourselves and the community.

Despite the facts being increasingly known and RTD's becoming more understood by the middle class 50-60 year olds who tend to make policy in NZ, some myths and prejudice still exists today. This has led to some Councils and licensing staff taking a negative view towards RTD's

Earlier this year Independent Liquor NZ was given the opportunity to be a sponsor and one of the alcohol suppliers for the inaugural NRL Auckland Nines.

This event was always going to be watched policed and reported on extremely closely because of the recent experiences and associated media coverage of the Wellington Rugby Sevens.

Public drunkenness and numerous cases of medical interventions in Wellington and the probably accurate perception that many in the crown considered the event an excuse for a drunken party rather than to watch internal rugby meant social attitudes and expectation were changing.

Given the popularity of rugby league without RTD customers we were very keen to supply **RTD's along with beer at this event. This was considered very high risk with the authorities given both the myths still existing around RTD's and the high profile Wellington Sevens issues.**

INDEPENDENT **Liquor**

Working with the event organisers, the Auckland Council and the liquor authorities we came up with a compromise which was to a first ever trial of spirit based brand sponsorship of a very large sporting occasion.

We developed a special 4% ABV RTD just for this event to match the alcohol level of the associated beer.

Outcome

Despite the worries of some in the community the event attended by 45,000 fans, the brand sponsorship was an outstanding success.

We attach profiles from the media coverage of the event and references from organisers.

<http://news.msn.co.nz/nationalnews/8800267/auckland-crowd-behaviour-praised>

<http://www.newstalkzb.co.nz/auckland/news/regak/1755424067-auckland-events-organisers-pat-themselves-on-the-back>

<http://tvnz.co.nz/national-news/auckland-s-big-weekend-hailed-success-5837677>

<http://www.3news.co.nz/Police-happy-with-Auckland-behaviour/tabid/423/articleID/332388/Default.aspx>



17th of April 2014

To whom it may concern

I am David Higgins, co-founder of Duco, New Zealand's foremost event development and promotion company. Our Company has worked in event promotion across a range of sporting codes including rugby, yachting, tennis and boxing.

We developed the concept of a rugby league Nines tournament in conjunction with the NRL and looked for sponsors to help us fund the inaugural Dick Smith NRL Nines event in February 2014.

The choice of an alcohol sponsor/supplier was important and choosing Independent Liquor's Woodstock Bourbon based RTD was a big step for us. We had worked successfully with Independent before but never before had a spirit based alcoholic beverage been involved in an event of this size. As we were breaking new ground we understandably had to work closely with the regulatory authorities including the Police and the Auckland Councils liquor licensing team. Independent came to the party agreeing to produce a lower strength RTD at 4% alcohol level, the same as the beer also being offered.

The weekend went incredibly well being the most popular summer event in New Zealand. Over 45,000 people attended each day and most importantly the crowd behaviour was comparatively very good. Police and the Eden Park authorities praised the event and the way it had been organised and controlled.

Having an RTD available for consumption available turned out to be incredibly popular but created no extra concerns for us as organisers and in my opinion created no additional problems for the police or ambulance staff.

We would happily work with Independent again and, with the positive feedback received would have no issues in providing RTDs as an alcohol option again in the future.

If well organised and policed, alcohol company sponsorship of sporting events can proceed without any increased risk of alcohol related harm.

David Higgins
Co-founder of Duco NZ

david.higgins@duco.co.nz

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29 April 2014

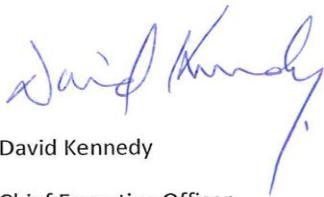
To whom it may concern

At the inaugural NRL Nines Rugby League tournament event at Eden Park in February this year, RTD's in the form of Bourbon and Cola were made available for sale to patrons. This was a departure from our normal practice where RTD's are not for sale in the public areas of Eden Park during a sporting event.

The company that supplied the RTD's produced a 4% alcohol product, which aligned to the alcohol content of the mid strength beer that was offered for sale.

Prior to the event Eden Park Trust and Eden Park Catering spent a lot of time discussing an appropriate Liquor Management Plan for the event with the Police, Auckland Council, the District Licencing Authority and the Health Promotion Agency. These discussions helped formulate the Liquor Licence application and its conditions of consent for the event.

The harm minimisation measures that were put in place for the event worked well, and all parties concluded afterwards that liquor management was generally well handled by the interaction between all of the parties involved. The sale of RTD's caused no particular problems, and the overall Liquor Management Plan and the processes adopted during the tournament worked to ensure appropriate patron safety and behaviour.



David Kennedy

Chief Executive Officer

C) Alcohol consumption

There is no evidence that marketing spend drives alcohol consumption in New Zealand.

1. Beer is the main category for alcohol advertising. In 2013 \$27m was spent representing 49% of total alcohol spend. This is representative of recent years.

	Y2013	Y2012	Y2011
Beer, Stout & Cider	27,319	24,406	26,042
Liquor Retail	11,741	14,413	14,189
Spirits & Liqueurs	7,278	7,211	6,727
Wines	9,711	8,447	8,160
Grand Total	56,049	54,477	55,117

2. Beer consumption is falling. From 2008 it is down 10%.

Alcohol available for consumption⁽¹⁾									
Volume of beverage available									
Volume of beverage available									
	Table wine ⁽²⁾	Fortified wine ⁽³⁾	Total wine	Beer	Spirit-based drinks ⁽⁴⁾	Spirits ⁽⁵⁾	Total spirits and spirit-based drinks	Total	
Info share series	ALC.SAFE	ALC.SAFF	ALC.SAFZ	ALC.SAAZ	ALC.SACA	ALC.SACB	ALC.SACZ	ALC.SAZZ	
Litres (million)									
Year ended December									
2008	93.454	0.766	94.220	322.490	59.193	10.487	69.680	486.391	
2009	94.626	0.669	95.295	306.181	59.135	10.498	69.632	471.109	
2010	101.908	0.706	102.614	299.348	59.485	12.592	72.077	474.039	
2011	97.297	0.592	97.888	299.794	61.928	12.809	74.737	472.420	
2012	101.706	0.512	102.218	279.934	62.006	12.885	74.891	457.044	
2013	105.564	0.362	105.926	288.811	58.148	13.020	71.167	465.905	

3. LAPS guidelines require advertising to show moderate consumption and sponsorships to primarily promote the sponsored team.

Principle 2 – Alcohol advertising and promotions shall be consistent with the need for responsibility and moderation in alcohol consumption.

Principle 4 – Sponsorship advertisements shall clearly and primarily promote the sponsored activity, team or individual. The sponsor, the sponsorship and items incidental to them, may be featured only in a subordinate manner.

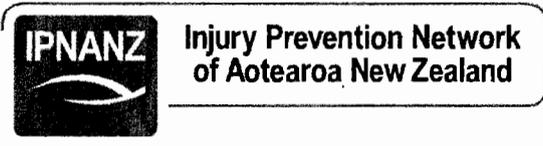
4. It is clear from the above facts that major marketing spend on beer is not driving consumption, in fact it is declining. The marketing spend influences brand choice, not consumption or not.

Yours Sincerely



Mark Unsworth
Corporate Affairs Director
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Or
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Wellington 6143
DDI: 04 914 1755



Kua raranga tahi tātou he whāriki mō ngā tangata mō āpōpō
 Together we weave the mat for future generations

24 April 2014

Mr Graham Lowe ONZM, QSM
 Chair
 Ministerial forum on Alcohol Advertising and Sponsorship
alcoholadvertisingforum@moh.govt.nz

Submission on Alcohol Advertising and Sponsorship

To the Ministerial Forum on Alcohol Advertising and Sponsorship

This submission is from Justine Ropata, General Manager, Injury Prevention Network of Aotearoa New Zealand (IPNANZ).

I can be contacted at:

Telephone:
 Email: j.ropata@ipnanz.org.nz
 Address: 1st Floor, 16 Broderick Road, Johnsonville, Wellington, 6037

Yours faithfully

A handwritten signature in black ink, appearing to read 'J. Ropata', is positioned below the 'Yours faithfully' text.

Justine Ropata
General Manager



24 April 2014

To Ministerial Forum on Alcohol Advertising and Sponsorship

alcoholadvertisingforum@moh.govt.nz

SUBMISSION ON THE ALCOHOL ADVERTISING AND SPONSORSHIP REVIEW

The Organisation

Injury Prevention Network of Aotearoa New Zealand (IPNANZ) is the national voice for injury prevention in New Zealand. We bring together the injury prevention sector and advocate for the reduction of intentional and unintentional injury and promote awareness that supports all New Zealanders and others to live, work and play free from injury.

Established in 2000, IPNANZ aims include:

- to raise the profile of injury prevention by providing a collective national voice
- to help cultural groups and communities identify appropriate injury prevention solutions
- to advocate for best practice in injury prevention
- to involve members at all levels of the decision-making process
- to help the injury prevention sector communicate within itself and to various audiences
- to help provide quality injury prevention training

Membership

The current membership of over 700, includes government agencies, research organisations, universities, the Non-Government organisations sector (NGO), groups, practitioners and individuals. The Governance of the organisation is through an elected Board of Trustees who are both members and representatives of the New Zealand injury prevention sector. IPNANZ also works with the support of strategic guidance from both a Māori Advisory Group and a Pacifica Advisory Group.

Injury definition

Injury is defined as any damage to the body resulting from exposure to external energy sources such as mechanical energy, heat, electricity or chemicals. In some cases, injuries result from the sudden lack of essentials such as oxygen or heat.

An injury event is commonly characterized as either **unintentional** or **intentional**.

- **Intentional Injury**
Injuries which are deliberate for example: abuse, suicide, rape, assault.
- **Unintentional Injury**
Injuries where there was no plan or intent for example: motor vehicle crashes, falls, drowning.

IPNANZ is committed to the reduction in all injury for the total population and population groups in New Zealand, through injury prevention, health promotion programmes and interventions. This includes advocating for policies and legislation that recognise the major influence that socio-economic factors have on injury reduction, and for policies and legislation that enable people to

make individual and collective choices that will reduce harm and improve their overall health and wellbeing as a citizen, resident and visitor to Aotearoa New Zealand.

Submission

Injury Prevention Network of Aotearoa New Zealand has elected not to complete the submission form provided, rather we wish to make the following comments and recommendations for your consideration.

Alcohol related harm

Alcohol use is a major causal factor in both intentional and unintentional injuries. It is also a major causal factor in crime related injury, including abuse and assault. Alcohol remains the most significant contributing factor (alongside speed) to road deaths and serious injuries in New Zealand and the cause of significant social cost.¹ An example of alcohol related harm can be seen in the prevalence of drink-driving and the extent of harm and the social cost it contributes to in a range of indicators including the number of young drivers over the limit, number of breath tests conducted, drink-driving convictions, alcohol-related casualties and public attitudes to drink-driving.² The total social cost for these fatalities and injuries was about \$446 million.³

The Alcohol Reform Bill

The first reading speech on the Alcohol Reform Bill identified that the irresponsible promotions offence contained in the Bill was a starting point for debate in the area of advertising and promotion. In addition to the large number of submissions in this area, there is increasing evidence that advertising increases the likelihood that young people will start to use alcohol and will drink more if they are already using alcohol,⁴ and that it is counter-productive to health promotion messages. The evidence supports that **exposure of young people to alcohol marketing speeds up the onset of drinking and increases the amount consumed by those already drinking.**⁵

Review of the regulatory framework for the sale and supply of liquor

In 2010, the New Zealand Law Commission⁶, undertook a review of the regulatory framework for the sale and supply of liquor the Report concluded “that having considered the recent research linking the advertising of alcohol and increased alcohol consumption by young people, and having heard the views of submitters and consultees greater controls are needed on advertising,

¹ <http://www.transport.govt.nz/assets/Uploads/About/Documents/RIS-safer-journeys-lowering-legal-alcohol-limits-for-driving.pdf>, Pg 2. <http://www.transport.govt.nz/assets/Uploads/Legislation/Documents/Lowering-the-legal-alcohol-limits-for-driving-Cabinet-paper-Nov-2013.pdf>

² This excludes data from drug-related crashes and where alcohol was suspected but not confirmed as a contributing factor.

³ <http://www.transport.govt.nz/assets/Uploads/Legislation/Documents/Lowering-the-legal-alcohol-limits-for-driving-Cabinet-paper-Nov-2013.pdf>.Pg.4.

⁴ L A Smith and D R Foxcroft (2009) “The effect of alcohol advertising, marketing and portrayal on drinking behaviour in young people: systematic review of prospective cohort studies”, *BMC Public Health*, 9:51; P Anderson and others (2009) “Impact of alcohol advertising and media exposure on adolescent alcohol use: a systematic review of longitudinal studies”, *Alcohol & Alcoholism*, volume 44; European Alcohol and Health Forum Science Group (2009) *Does marketing communication impact on the volume and patterns of consumption of alcoholic beverages, especially by young people? A review of longitudinal studies*, www.eurocare.org.

⁵ Babor T., Caetano C., Casswell S. et al. (2010). *Alcohol: no ordinary commodity-research and public policy*. New York: Oxford University Press.

⁶ Law Commission (2010). *Alcohol in our lives: Curbing the harm. A report on the review of the regulatory framework for the sale and supply of liquor*. Report 114. Wellington: New Zealand.

sponsorship and other promotion of alcohol. These controls are in terms of the content of advertising, the levels of exposure to advertising and sponsorship messages, and inappropriate sales promotions. There is a strong argument that a self-regulatory body for alcohol advertising is inappropriate”.

IPNANZ note that 2,281 out of 2,939 submissions to the Law Commission commented on the range of policy options presented on alcohol advertising and marketing. Of the 2,281 submissions 86% supported banning or restricting all advertising of all alcohol in all media. We believe that more recent evidence that will be presented to you during the course of your review will only add weight to the Law Commission’s findings and recommendations, and the urgency for action.

It has now been four years since the Law Commission’s recommendations were made. In this time New Zealanders young and old have been continuously exposed to the harmful effects of alcohol advertising and sponsorship. This is no time for further review; rather it is time to act.

IPNANZ note that Stage 1: of the Law Commission’s recommendations has been implemented by the inclusion on a new clause making it an offence to promote the excessive consumption of alcohol in the Sale and Supply of Alcohol Act 2012. However, we are unaware of any test cases based on this new law.

IPNANZ recommend that the Ministerial Forum consider mechanisms to monitor the impact and effect of this legislation.

IPNANZ recommend that the Ministerial Forum support the immediate implementation of *Stage 2 and 3 of the Law Commission recommendations on alcohol advertising and sponsorship as set out in their report Alcohol in Our Lives – Curbing the Harm 2010.*⁷ These being:

Stage 2: An interdepartmental committee to consider adopting legislated measures designed to reduce exposure, particularly of young people.

Stage 3: This stage would implement restrictions including:

- Messages and images may refer only to the qualities of products, such as origin, composition, means of production and patterns of consumption;
- The banning of images of drinkers or the depiction of a drinking atmosphere;
- Only allowing advertising in press with a majority readership over 20 years of age;
- No alcohol-related sponsorship of any cultural or sports events or activities.

IPNANZ understand that this means a ban on all forms of alcohol advertising and sponsorship in all media, other than objective product information.

IPNANZ recommend that any permitted alcohol advertising is accompanied by health advisory messages developed by public health experts.

At the recent Global Alcohol Policy Conference in Seoul Korea, internationally renowned alcohol policy researcher Professor Thomas Babor told delegates that self-regulation of advertising by those with a vested interest has shown to be “**spectacularly ineffective**”. We wholeheartedly agree. It serves no purpose but to maintain the unacceptable status quo and delay effective measures to curb the harm alcohol-advertising is shown to contribute to.

IPNANZ recommend that the Ministerial Forum ensure that self-regulation of alcohol advertising and sponsorship in New Zealand is ended immediately.

⁷ Ibid.

IPNANZ consider that there are practical ways in which much of the existing alcohol advertising and sponsorship activities could be limited.

These include:

- The establishment of an independent body to take over the management and regulation of alcohol advertising and sponsorship, and ending self-regulation.
- Setting out what alcohol advertising is allowed (i.e. objective product information only), and ban all other advertising. This would apply to ALL broadcast, bill-board and outdoor advertising, all print media, and all website and social media content that is generated by New Zealand based companies/individuals.
- New Zealand companies/individuals are prohibited for promoting or contributing to any overseas based promotions in New Zealand.
- A fund is established from alcohol excise tax to support alternative funding options for alcohol sponsorship, and this is phased out over the next 1-2 years.

Conclusion

IPNANZ supports the voice of organisations, individuals and advocates working in the alcohol harm prevention sector, who believe that this matter has been discussed and reviewed enough. The evidence available is strong enough to warrant immediate action, and there is strong public support for reducing the exposure of all New Zealanders to alcohol advertising in all of its forms.

IPNANZ recommends that the Ministerial Forum on Alcohol Advertising and Sponsorship advocated for an action plan which will implement the Law Commission's recommendations as put forward in their report in 2010. In particular our children and young people need to be protected from the negative impacts that alcohol advertising and sponsorship have on their lives.

Injury Prevention Network of Aotearoa New Zealand on behalf of its membership advocates that an essential element of the Forum's role must be one of creating an environment that promotes healthy choices, particularly for our young population and not one where choices are influenced by the needs of the alcohol industry.

Signed



Name: Justine Ropata

General Manager

Submission to the Ministerial Forum on Alcohol Advertising and Sponsorship

Name:	Annette Milligan
If this submission is made on behalf of an organisation, please name that organisation here:	INP Medical Clinic
Address/email:	annette@inp.co.nz
Please provide a brief description of your organisation (if applicable):	The family planning and sexual health clinic for Nelson, seeing 7,000 clients per year, over 5,000 of which are under 22 years of age. Provide forensic examinations for rape and sexual assault, as well as after-care in cases of sexual assault for Nelson-Marlborough region.

There are two ways you can make a submission.

- Post to:
Nick Goodwin, Secretariat for Ministerial Forum on Alcohol Advertising & Sponsorship

Ministry of Health

PO Box 5013

Wellington 6145
- Electronically complete the submission form and email to:
alcoholadvertisingforum@moh.govt.nz
- Please put 'Forum Submission' in the subject line.

Your submission may be requested under the Official Information Act 1982. If this happens, it will normally be released to the person who requested it. However, if you are submitting as an individual (rather than representing an organisation), your personal details will be removed from the submission if you check the following boxes:

- I do not give permission for my personal details to be released under the Official Information Act 1982.
- I do not give permission for my name to be listed in the published summary of submissions.

Submission

Introduction:

I strongly support greater restrictions on alcohol promotion/advertising and sponsorship to delay the age at which young people start to drink, to help de-normalise alcohol, and to reduce harmful drinking.

Alcohol sponsorship of sports, music festivals and other cultural events normalise alcohol to young people and must end. We have done this in New Zealand for tobacco, and in Australia the government has recently completed a 'buy-out' (replacement) of alcohol sponsorship in community sports clubs.

Recommendations:

1. The Government should fully implement the recommendations on advertising and sponsorship made by the New Zealand Law Commission in *Alcohol In Our Lives* (Chapter 19) to ensure:
 - o no alcohol-related sponsorship of any cultural or sports events or activities
 - o no alcohol advertising or alcohol sponsorship in any media (television, radio, internet and so on), other than advertising as prescribed in the Law Commission recommendations.
2. These changes should be enforced by law through amendments to the Sale and Supply of Alcohol Act, 2012.
3. The new law should restrict future forms of alcohol promotion by default, with penalties that will effectively discourage promoters from breaking the law.

I include responses to specific questions from the forum in the following pages.



Annette Milligan
Managing Director

23/04/14

2. Do you support further restrictions on **alcohol advertising** (over and above the measures currently undertaken) to reduce alcohol-related harm? **Yes or No.** [Tick box]

Yes

No

3. What reasons do you have for your view? Please include details.

In this clinic, we see on a daily basis, the results of excess consumption of alcohol and the poor decision-making that often results from this, especially in young people.

In almost every case of sexual assault which accesses this service, alcohol is a significant factor in the assault. In our experience, no other single cause is so closely associated with sexual assault as alcohol.

There is no doubt that everyone is influenced by advertising – influencing decision-making is the sole reason for the existence of the advertising industry.

In our view, all advertising, including sponsorship, of alcohol should be banned.

6. Do you support further restrictions on **alcohol sponsorship** to reduce alcohol-related harm? **Yes or No.** [Tick box]

Yes

No

7. What reasons do you have for your view? Please include details.

Sponsorship is advertising going by another name. The only reason for sponsorship is for the promotion of a brand. It is particularly appalling that the connection between sport and alcohol advertising is so strong. Young people should be encouraged to participate in sport, but with such high prominence of alcohol branding, it is hard to be enthusiastic about this.

In our view – alcohol sponsorship should be totally banned.

10. If further restrictions to **alcohol advertising** are necessary, what do you think should be done?

Alcohol advertising should be banned – it's very simple – we have the template for tobacco advertising – dust that off and get it into action. Despite many predictions – the earth continued to rotate when tobacco advertising was banned.

15. If further restrictions to **alcohol sponsorship** are necessary, what do you think should be done?

Again – the template is there. Sadly, the Health Sponsorship Council has been disbanded – but the model is there for a relatively painless transition. Provide payment for the alcohol sponsorship for a defined period of time and allow organisations to wean themselves off alcohol sponsorship.

28. Any other comments

For those of us working in the front line of the harm done by alcohol, there is no choice – we have to reduce the harm – and one powerful way of achieving this is to eliminate the advertising and sponsorship of alcohol. Alcohol is not always glamorous and attractive – it can be repulsive to human decency. Reduce the harm – ban the advertising and sponsorship.

Name:	Simon Lendrum
If this submission is made on behalf of an organisation, please name that organisation here:	JWT New Zealand
Address/email:	Simon.lendrum@jwt.com Level 2, Imperial Building 44 Queen Street Auckland
Please provide a brief description of your organisation (if applicable):	Advertising Agency

Your submission may be requested under the Official Information Act 1982. If this happens, it will normally be released to the person who requested it. However, if you are submitting as an individual (rather than representing an organisation), your personal details will be removed from the submission if you check the following boxes:

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Questions to guide your submission

1. Did you/your group/your organisation make a submission on the 2010 Law Commission report *Alcohol in our Lives: Curbing the Harm* and/or to the Justice and Electoral select committee, on alcohol advertising and sponsorship issues? **Yes or No**. If yes, please specify whether you submitted to the Law Commission and/or Select Committee.

No.

2. Do you support further restrictions on **alcohol advertising** (over and above the measures currently undertaken) to reduce alcohol-related harm? **Yes or No**. [Tick box]

Yes

No

3. What reasons do you have for your view? Please include details.

JWT believes that the Sale and Supply of Alcohol Act 2012 already provides sufficient measures to achieve the objectives set out for the Act. Further restrictions will not, we believe, achieve the intended objectives claimed. We dispute the findings of the Law Commission in its 2010 report, claiming evidence that advertising leads to increased consumption of alcohol (see 4, below for counter-evidence).

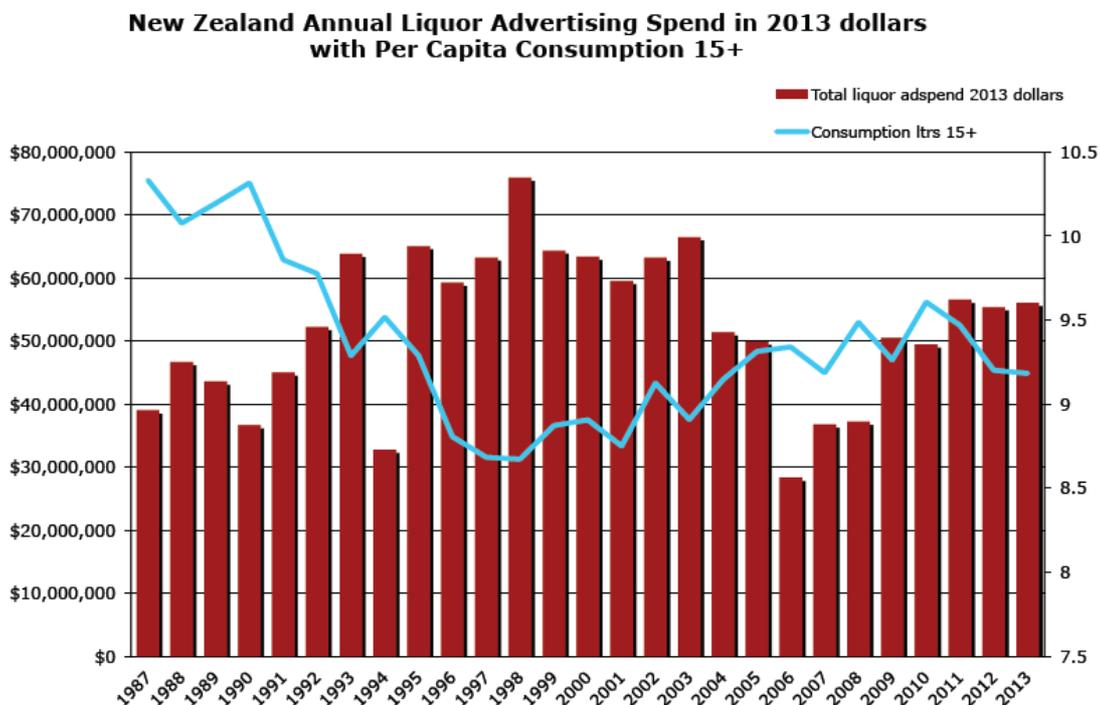
It is our assertion that the purpose of advertising alcohol brands is to influence choice, not to increase consumption at a total level. The alternative to advertising and sponsorship would be increased price fighting, with price by default becoming the key differentiator between brands. This outcome would drive prices down, and make alcohol more accessible, and more likely to contribute to harm.

A final impact of any such changes would be on our business, and the people employed within our company on work relating to the responsible promotion of alcohol; to our clients and their business; and to associated companies that work alongside us in the creation of materials intended to influence brand choice.

We believe the measures already in place, via the Advertising Standards Authority Codes and pre-vetting process are effective and ensure responsible communications to support brand choice whilst providing the correct consumer protection desired by the Act.

4. What evidence is available to support your view (please cite references if available, or provide supporting information). Please focus on evidence since 2010 if this is available.

Data from The Foundation for Advertising Research that aggregates alcohol advertising spend and compares with per capita consumption in NZ indicates little, if any, correlation between alcohol promotion and alcohol consumption:



Source: Nielsen Research, Statistics NZ.

When broadcast media advertising restrictions were lifted in 1992, consumption demonstrated a decline from levels seen prior to broadcast advertising. We believe that the investment in brands enabled consumers to choose based on perceived quality rather than being influenced by price mechanics. A ban on advertising would return us to a market where price is the only available lever for brand owners to pull in order to gain market share. Competition would still remain within the category, but lowest price would dictate the winner as no other meaning would be communicated to enable consumers to choose through understanding brand cues such as quality, provenance, and history.

Sources previously been quoted by the Law Commission support the contention that there is little evidence to suggest that advertising bans lead to decreased consumption. *Alcohol, No Ordinary Commodity*, was updated in 2010, and in it the authors find that studies suggested advertising bans had no substantial effect on total consumption (*Alcohol, No Ordinary Commodity*, OUP, New York, pub 2010, p 194). There's no evidence to suggest this finding is out of date.

International evidence again points to little correlation between advertising bans, or extreme restrictions, and consumption levels. The Foundation for Advertising Research (source: Alert, the information bulletin for FAR, 20/13, pl) suggest that where bans had been instituted in markets around the world, there was no consequent reduction in consumption.

5. Do you think the available evidence is strong enough for changes to be made now? Explain your reasons.

No.

6. Do you support further restrictions on **alcohol sponsorship** to reduce alcohol-related harm? **Yes or No. [Tick box]**

Yes

No

7. What reasons do you have for your view? Please include details.

As above. We believe that sponsorship and advertising are both legitimate communications options to enable brands to differentiate and allow choice, and brand switching, within the category.

8. What evidence is available to support your view (please cite references if available, or provide supporting information). Please focus on evidence since 2010 if this is available.

As above.

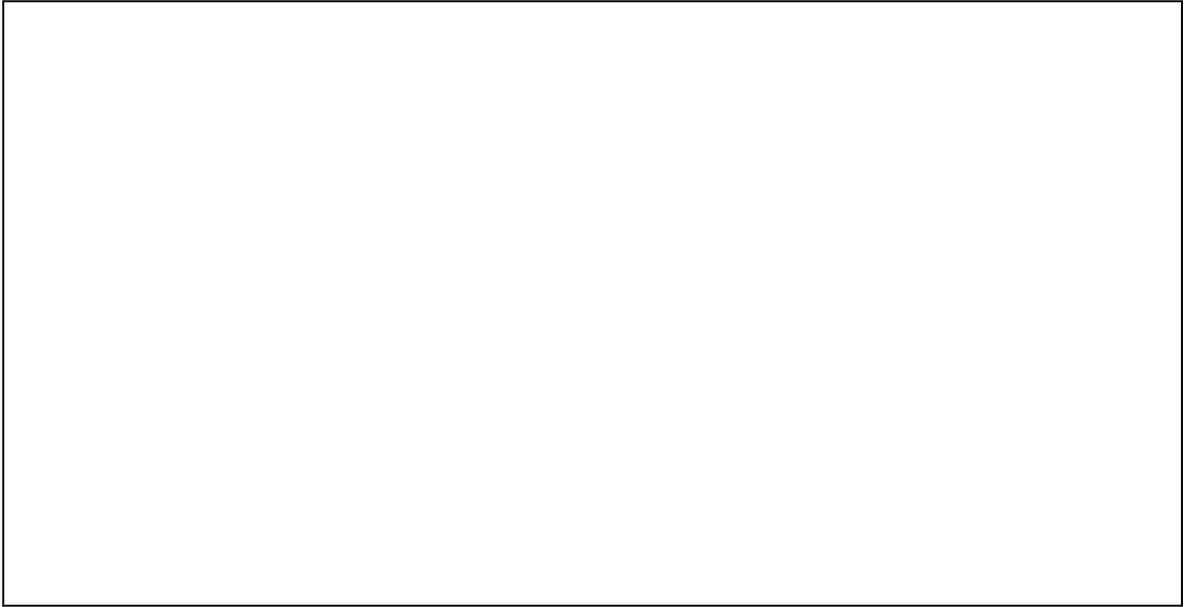
9. Do you think the available evidence is strong enough for changes to be made now? Explain your reasons.

No.

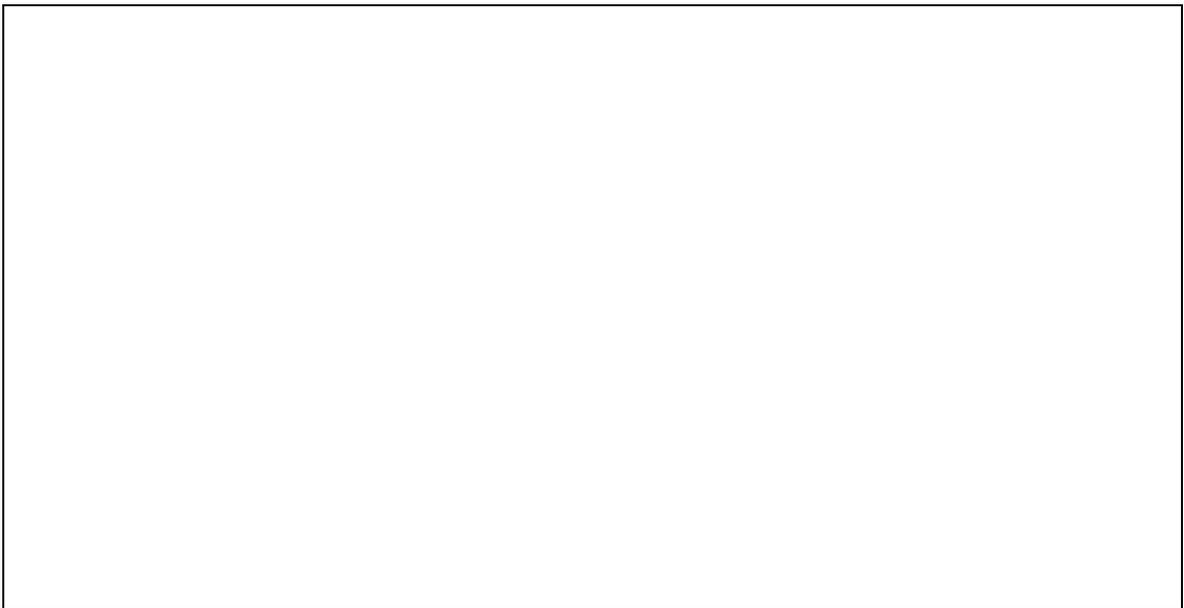
Types of possible restrictions (if supported)

10. If further restrictions to **alcohol advertising** are necessary, what do you think should be done?

11. How would these proposed restrictions work in practice to reduce alcohol-related harm (e.g. crime, disorder, negative public health outcomes)?



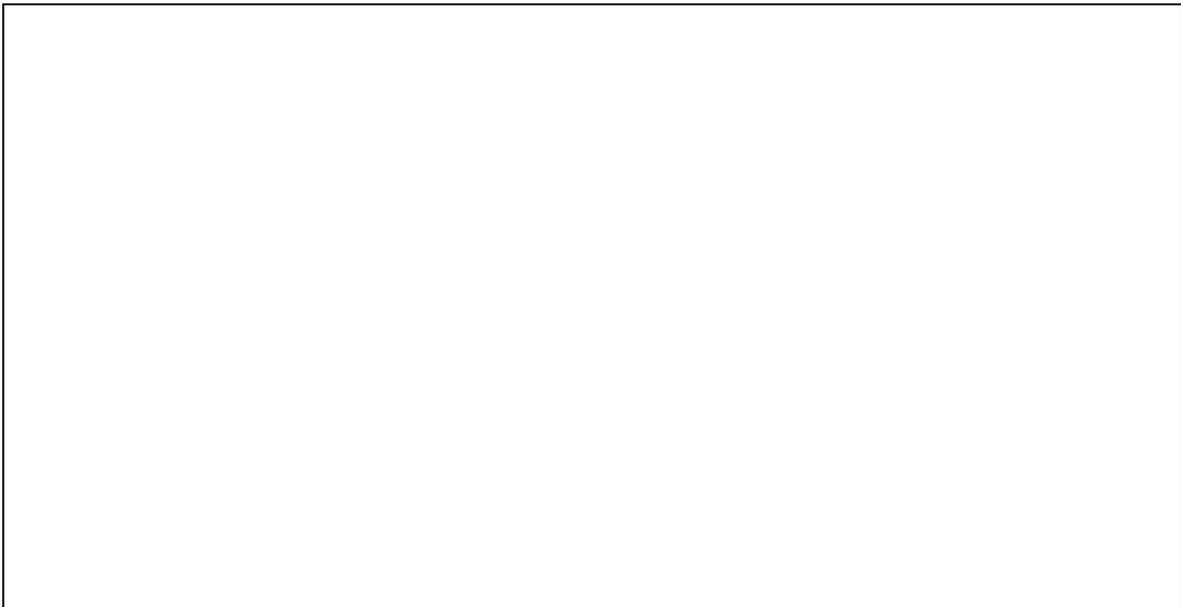
12. What evidence is available that your proposal(s) would work?



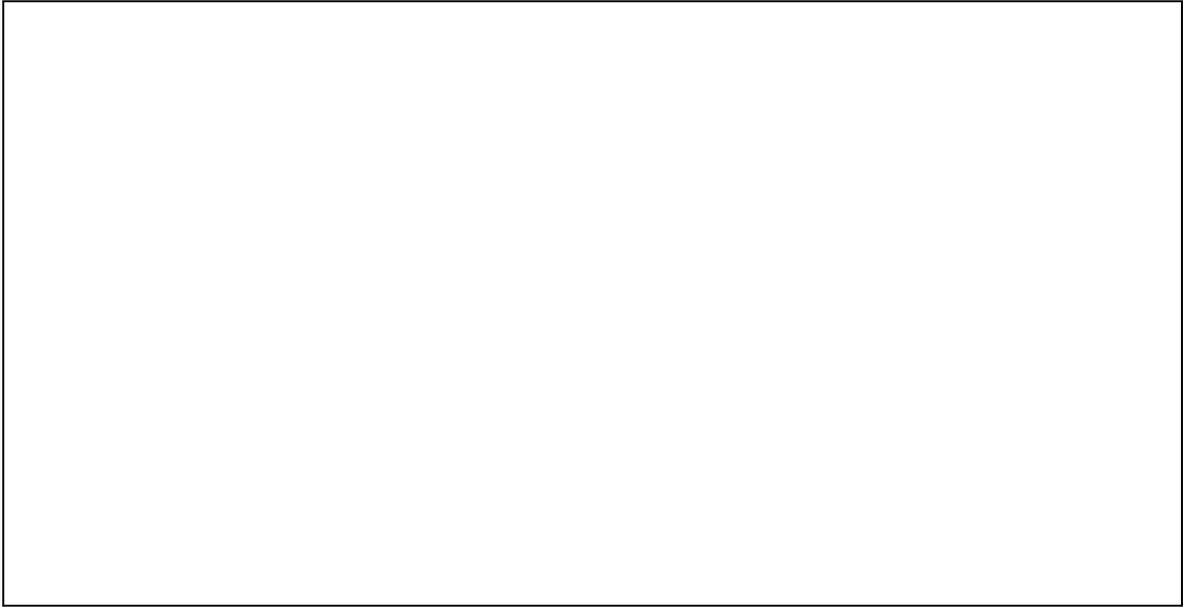
13. What other interventions could potentially be tried in future?

Whilst we do not support further restrictions on advertising and sponsorship, we would support compulsory pre-vetting of alcohol advertising to ensure that all communications are totally compliant with the guidelines set out (this process already exists in Ireland). In addition, further communications from the industry to communicate and promote responsible consumption is fully supported.

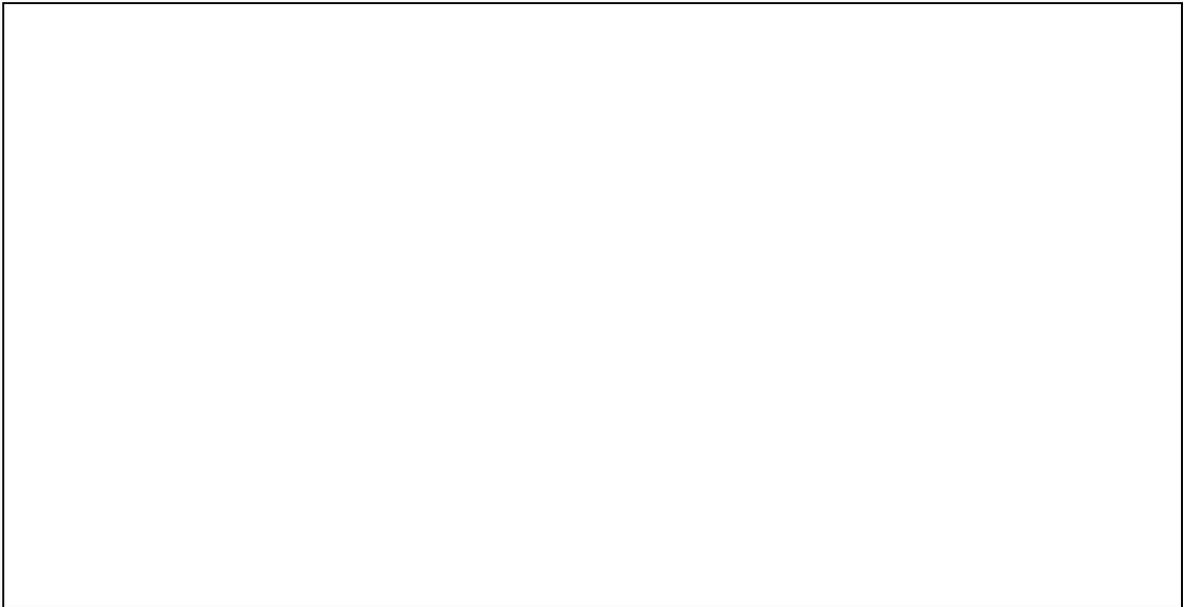
14. Why should these other interventions be considered?



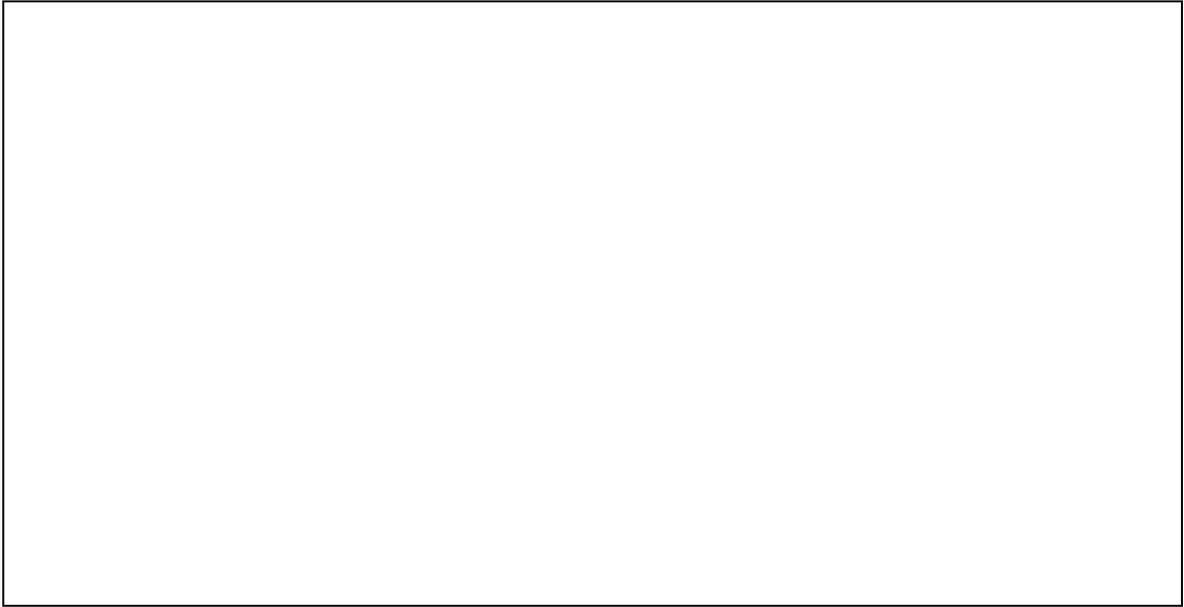
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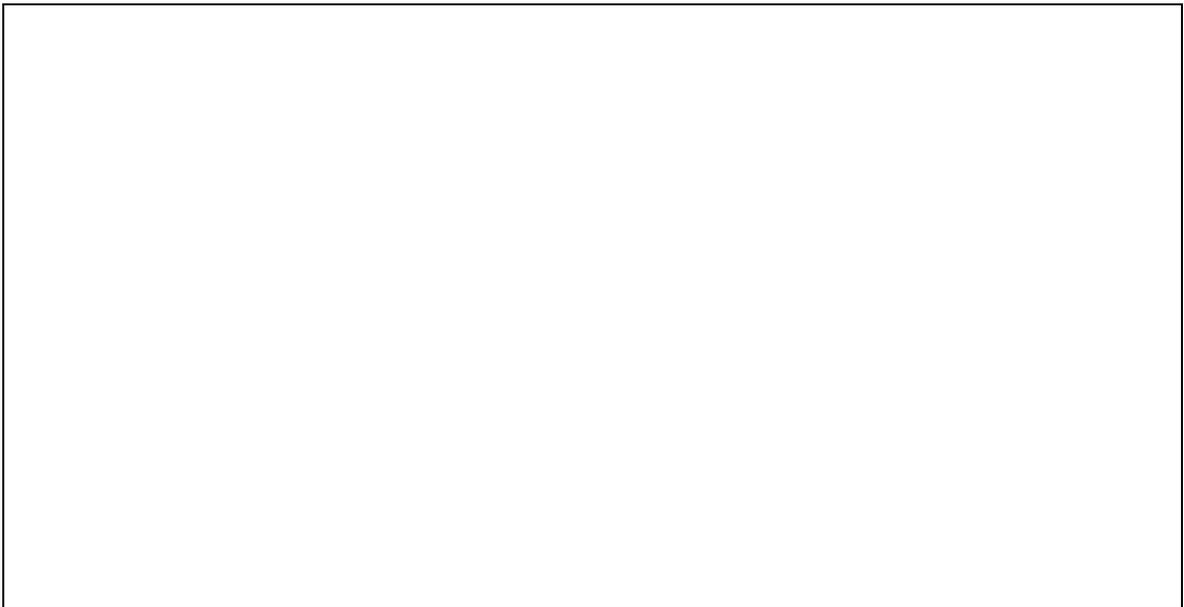
16. How would these proposed restrictions work in practice to reduce alcohol-related harm (e.g. crime, disorder, negative public health outcomes)?



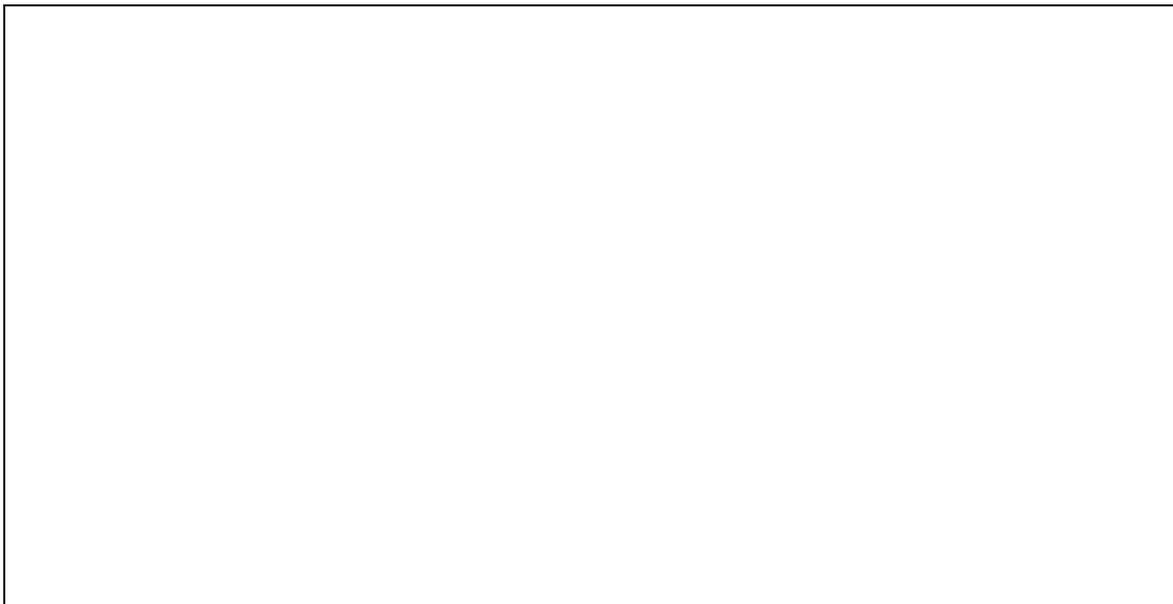
17. What evidence is available that your proposal(s) would work?



18. What other interventions could potentially be tried in future?



19. Why should these other interventions be considered?



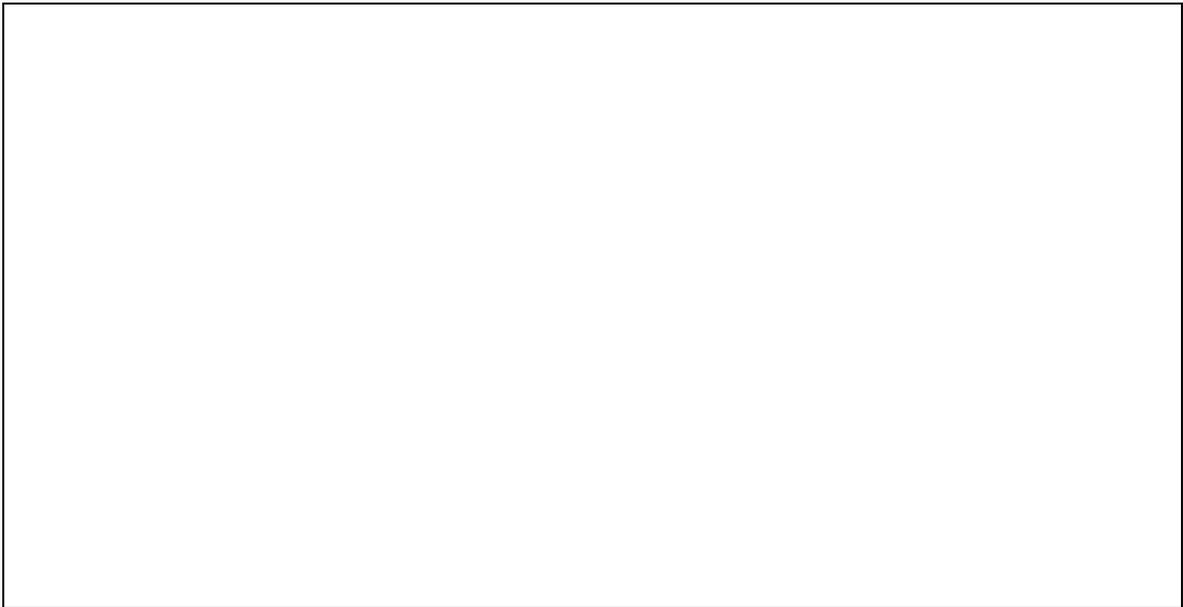
Impacts of proposals

20. Who would be affected by your proposals to restrict **alcohol advertising** and how?



21. How might these proposals impact on:

- alcohol consumption, particularly among young drinkers and heavy drinkers;
- the perception of alcohol as an everyday commodity, particularly among children and young people;
- alcohol-related harm;
- businesses, such as the alcohol and advertising industries;
- the recipients of alcohol sponsorship funds; and
- different populations – e.g. youth, children, Māori, Pasifika, lower socio-economic populations.

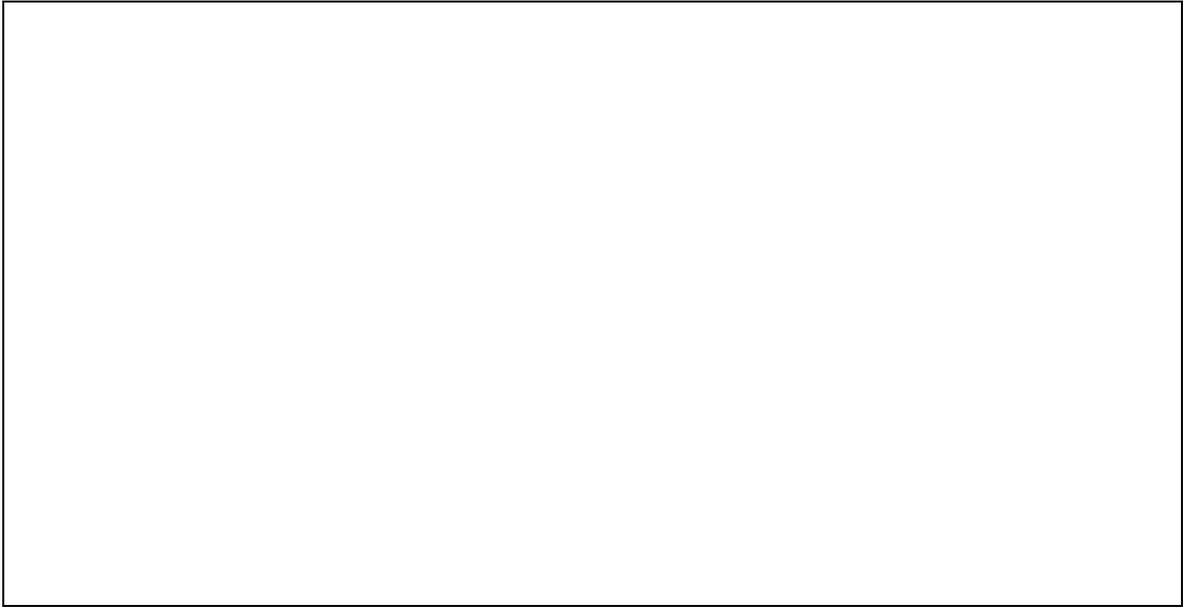


22. Who would be affected by your proposals to restrict **alcohol sponsorship** and how?



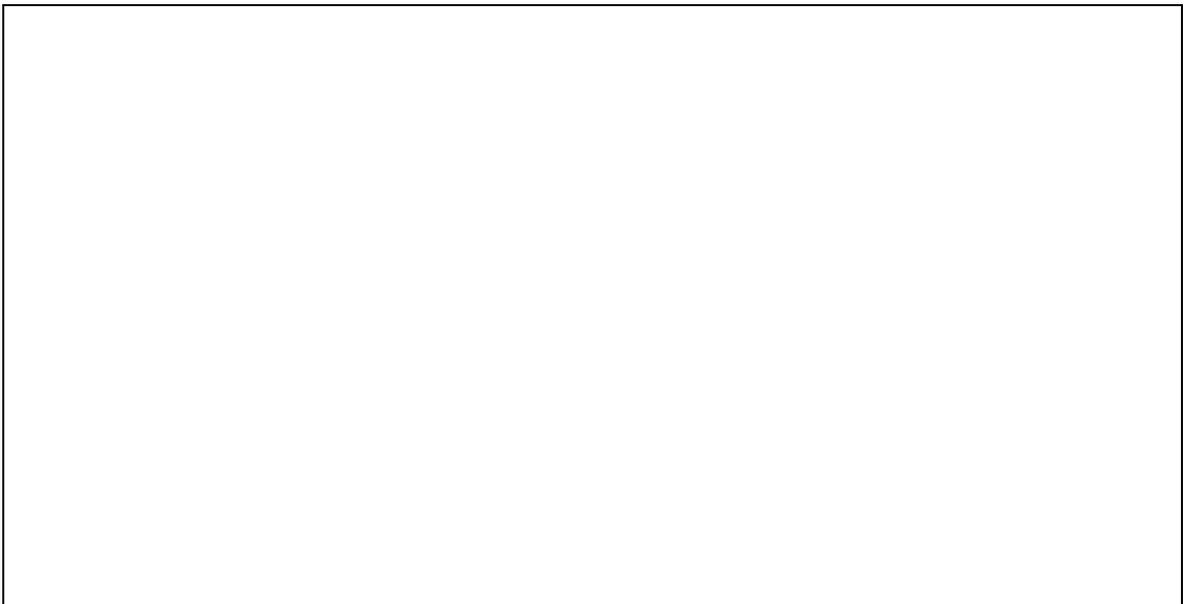
23. How might these proposals impact on:

- alcohol consumption, particularly among young drinkers and heavy drinkers;
- the perception of alcohol as an everyday commodity, particularly among children and young people;
- alcohol-related harm;
- businesses, such as the alcohol and advertising industries;
- the recipients of alcohol sponsorship funds; and
- different populations – e.g. youth, children, Māori, Pasifika, lower socio-economic populations.



Ongoing and new challenges

24. What ongoing and emerging challenges does the Forum need to take into account when considering whether further restrictions on **alcohol advertising** are necessary to reduce alcohol-related harm?



25. What action, if any, could be taken to address these matters?

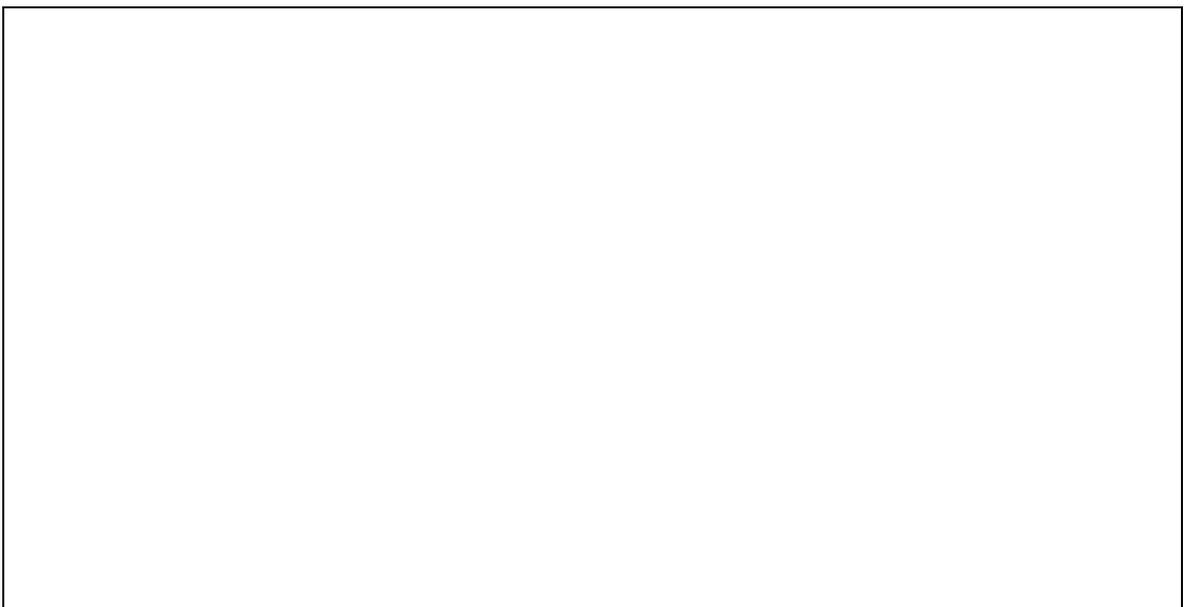
26. What ongoing and emerging challenges does the Forum need to take into account when considering whether further restrictions on **alcohol sponsorship** (e.g. of sporting, cultural and other events) are necessary to reduce alcohol-related harm?

27. What action, if any, could be taken to address these matters?



Other comments

28. Do you have any other comments?



Making a submission

Submissions close on **Monday 28 April 2014 at 5pm.**

- If you would like further information during the submission period please email alcoholadvertisingforum@moh.govt.nz and put **'Forum information'** in the subject line.

Please detach and return.

Name:	Alice Eager
If this submission is made on behalf of an organisation, please name that organisation here:	Law For Change Otago (written by Alice Eager, Georgia Jacques, Kalyani Dixit and Shaun Kennedy on behalf of Law For Change Otago)
Address/email:	aliceceager@gmail.com
Please provide a brief description of your organisation (if applicable):	Law For Change is a national and regional volunteer group, which encourages students and young professionals to engage in public interest law. Our aims are: <ul style="list-style-type: none">• To harness legal skills to serve the public good• To connect and inspire like minded individuals• To discover and promote opportunities in the public interest• To create a legal community committed to serving the public good

There are two ways you can make a submission.

- Forward your comments, with the detachable submission form at the back of this document, to:
Nick Goodwin
Secretariat for Ministerial Forum on Alcohol Advertising & Sponsorship
Ministry of Health
PO Box 5013
Wellington 6145
- Electronically complete the submission form available at the back of this document, add your comments and email to:
alcoholadvertisingforum@moh.govt.nz
- **Please put 'Forum Submission' in the subject line.**

Your submission may be requested under the Official Information Act 1982. If this happens, it will normally be released to the person who requested it. However, if you are submitting as an individual (rather than representing an organisation), your personal details will be removed from the submission if you check the following boxes:

- I do not give permission for my personal details to be released under the Official Information Act 1982.
- I do not give permission for my name to be listed in the published summary of submissions.

Questions to guide your submission

1. Did you/your group/your organisation make a submission on the 2010 Law Commission report *Alcohol in our Lives: Curbing the Harm* and/or to the Justice and Electoral select committee, on alcohol advertising and sponsorship issues? **Yes or No.** If yes, please specify whether you submitted to the Law Commission and/or Select Committee.

No

2. Do you support further restrictions on **alcohol advertising** (over and above the measures currently undertaken) to reduce alcohol-related harm? **Yes or No.** [Tick box]

Yes

No

3. What reasons do you have for your view? Please include details.

Alcohol is an unavoidable harm in North Dunedin. The alcohol abuse and binge drinking culture of the student population has negative repercussions on the rest of the city. The cost of the drunken antics: damage to the streets, police presence and medical treatment, and resulting poor reputation affect all of Dunedin.

Alcohol consumption increases the likelihood of student assault, impedes academic success and is entrenched in the student culture¹. In female students excessive alcohol consumption is likely to lead to vomiting or unwanted sexual contact, in males it incentivizes disruptive behaviour. In older University students excessive alcohol consumption led to an increase in missed classes, drink-driving and unprotected sex². In discussion groups alcohol was the first reason given for why people engaged in unsafe sex – which could **explain New Zealand’s sexual health statistics**³.

We are not opposed to alcohol consumption, but we are opposed to measures that promote or encourage excessive alcohol consumption in an environment which is already prone to heavy drinking. In North Dunedin, it is not merely the University Students who are developing harmful alcohol habits: increasing numbers of high school students are being drawn to the student quarter, drinking heavily and getting into trouble. There needs to be a means to make alcohol less attractive, to slow the rate of initiation to alcohol, and deter excessive consumption – from the evidence we have found we believe that further restricting alcohol advertising will help to achieve this.

There is research to show that ***culture is an important determinant of the level and pattern of alcohol consumption***⁴. The scarfie culture already produces enough demand for alcohol to not warrant more advertising. Excessive alcohol consumption is an accepted part of the New Zealand culture and thus needs to be addressed at a cultural level – for example through advertising and other forms of mass media.

The alcohol industry runs a strategic campaign that ***feeds off of, and builds upon, youth culture***⁵. The general consensus among the research we found was that there is a direct link between alcohol advertising and alcohol consumption.

The first major study to connect the influence of advertising and drinking in young people was conducted in New Zealand. It found that for every additional alcohol advertisement a person was exposed to, their alcohol consumption increased by 1%.⁶ Furthermore, the images and ideas promulgated in alcohol advertisements are not congruent with the realities of drinking and young people (who are yet to learn the harmful effects of alcohol) are most affected by this. This may not seem significant, until you think of the consequence of one additional advert, ever week for a year!

Therefore, in the interests of the student population and the wider Dunedin community, we support further restrictions on alcohol advertising to prevent a troubling culture of alcohol excess becoming even worse.

¹ Ozgur Avci, Michael Fendrich “Student Drinking-Related Problems in an Urban Campus: Implications for Research and Prevention” Journal of American College Health, 58, 6 at 545

² Avci, at 551. This study examined students in the USA, however we are well aware the same situation applies in NZ.

³ Virginia Braun “She’ll be right? National identity explanations for poor sexual health statistics in Aotearoa New Zealand” (2008) Social Sciences and Medicine 67, 1817

⁴ Fiona Measham “The new policy mix: Alcohol, harm minimisation, and determined drunkenness in contemporary society” International Journal of Drug Policy 17 (2006) 258 – 268

⁵ S Casswell “Current status of global marketing policy an urgent challenge for global governance” Addiction (2012) 107(3), 48 at 479

⁶ SC Jones, CA Magee “Exposure to Alcohol Advertising and Alcohol Consumption among Australian Adolescents” Alcohol (2011) 46 630 at 6.30

4. What evidence is available to support your view (please cite references if available, or provide supporting information). Please focus on evidence since 2010 if this is available.

In 2007 the alcohol regulation of the 30 OECD countries was assessed and the countries were ranked according to a scoring system calculated on 16 areas of alcohol policy. The top three countries were Norway, Poland and Iceland. The bottom three countries were Germany, Switzerland and Luxembourg. New Zealand ranked 11th, in the second tier of countries. The authors of the index allege that it can show the impact of altering policy on drinking practices:

If, for example, the United States imposed taxes that raised alcohol prices by 50%, its alcohol policy score would increase from 43 to 48, a change that would theoretically cause a 7% drop in alcohol consumption⁷.

Other research affirms this hypothesis, estimating that a ban on alcohol advertising would reduce the amount of alcohol consumed by adolescents by 28% and cut binge drinking by 42%⁸. This research was specific to the US, but given that New Zealand studies have shown the impact of alcohol advertising on New Zealand's young people, a similar trend is likely.

There is a caveat though, to the impact and success of any prohibition on alcohol advertising. The restrictions must not exceed what the population considers acceptable. It is for this reason that an absolutist law like the Loi Evin in France would not be effective.

The research shows that the most significant time to impact a person's drinking habits is in adolescence when drinking starts⁹. Hopefully, with a reduction in alcohol advertising and the predicted reduction in alcohol consumption, there would be a smaller number of adolescents developing alcohol habits, which become increasingly dangerous as they reach university age.

5. Do you think the available evidence is strong enough for changes to be made now? Explain your reasons.

⁷ Donald A Brand, Michaela Saisana, Lisa A Rynn, Fulvia Pennoni, Albert B Lowenfles "Comparative Analysis of Alcohol Control Policies in 30 Countries" (2007) PLOS Medicine 4 (4) 151

⁸ W Hollingworth, BE Ebel, CA McCarty, MM Garrison, DA Christakis, FP Rivara "Prevention of deaths from harmful drinking in the United States: the potential effects of tax increases and advertising bans on young drinker" J Stud Alcohol (2006) 67 300

⁹ Knutsche et al, n8 at 857

The available evidence is definitely strong enough to effect an immediate change. Indeed, in the past the link between alcohol advertising and alcohol consumption has been questioned, but more and more recent surveys are showing the harmful links – not just in young people, but adults too¹⁰.

The decision to drink alcohol is a combination of emotional and rational processes, taking place at a level where such processes are unconscious and automatised. It is at this same level that people are influenced to drink by advertising, peer pressure and culture. If we reduce the effect of one of these groups, we can reduce the harm of excessive alcohol consumption¹¹.

Even if alcohol advertising does not increase alcohol consumption it is seen to reflect the demand of society. More advertising therefore reflects a higher demand, which Dunedin does not need.

6. Do you support further restrictions on **alcohol sponsorship** to reduce alcohol-related harm? **Yes or No.** *[Tick box]*

Yes

No

¹⁰ Bosque-Prous et al, n11 at 3

¹¹ Kuntsche et al, n8 at 851

7. What reasons do you have for your view? Please include details.

New Zealanders consider heavy drinking to be part of our culture, helping to define who we are. Binge drinking behaviours are considered normal and understandable¹².

We are especially concerned by breweries sponsoring sports teams and events in Dunedin as it leads to an association between the team and the drink, just as has been done with Speights and the Highlanders. Our concern is that the sponsorship lends credibility to the alcohol brands and affirms them as an everyday commodity. One that is associated with high-performance athletes.

The University of Otago has been progressively moving away from the binge drinking associations of scarfie-dom. Their co-sponsorship of the Highlanders, with Speights, sets this back as it immediately creates an association between the two entities, for all of the country to see.

The Speights brand is significantly mixed in with the “Scarfie” culture and the “Southern” identity. Allowing the brand further exposure through sports only enforces this, again normalising the brand and subconsciously promoting its consumption.

However, at the same time, alcohol sponsorship supports a large number of sports and businesses in the wider Dunedin area and restricting the ability for them to receive alcohol-related sponsorship could hinder their operations. Thus, any limits placed should be carefully considered so that the benefits of preservation outweigh the detrimental effects of promoting alcohol. In our opinion, the greatest short term success in reducing alcohol consumption and harmful behaviours will come from restricting advertising rather than sponsorship.

8. What evidence is available to support your view (please cite references if available, or provide supporting information). Please focus on evidence since 2010 if this is available.

There is a wealth of information showing the links between alcohol advertising and problematic drinking, but little that we could find on the effects of sponsorship. We believe there are other factors that should be addressed before sponsorship becomes a primary focus – alcohol advertising, pricing and strength for example.

There is a wealth of information showing the links between alcohol advertising and problematic drinking. As sponsorship is a form of advertising it is evidence that is **applicable to our view by analogy, notwithstanding the evidence’s lack of explicit** reference to sports team sponsorship. Furthermore it is our submission that sponsorship should not be the primary focus of any regulatory expeditions in this area, and that alcohol advertising, pricing and strength should be included as some other examples within the focus of this forum.

¹² Braun, n6 at 1819

9. Do you think the available evidence is strong enough for changes to be made now? Explain your reasons.

Sources are more concerned with advertising itself rather than sponsorship. Thus there is no evident harm in delaying these restrictions until a future date when they may be required.

Types of possible restrictions (if supported)

10. If further restrictions to **alcohol advertising** are necessary, what do you think should be done?

The Bosque-Prous inquiry found that countries with greater advertising restrictions had a lower prevalence of hazardous drinking¹³. We think that New Zealand should follow these more regulated countries in preventing alcohol advertising exposure to children and young people.

Self-regulation by the alcohol companies is not a suitable answer. There is evidence to suggest that self-regulation does not **protect the population from exposure to alcohol advertising**¹⁴. This is likely a consequence of the alcohol companies being careful to follow the letter of the restrictions, but not the spirit¹⁵.

The individual drinker is a customer operating within a modern consumer society, where sophisticated manufacturing and retail industries specifically target their main markets (such as young adult drinkers) with varying degrees of commitment to regulatory codes of practice.

An appropriate start would be a watershed on alcohol advertising, as is currently seen with adverts surrounding sex. This is appropriate because it would place consumption of **alcohol in a category of “adult behaviours”, which is line with the current legislative and societal expectations of alcohol consumption.**

We also considered the possibility of removing alcohol advertising at crucial alcohol purchase times, when people are likely to be drinking. In Dunedin there is a culture of drinking in excess on Thursday and Saturday nights. Thus, reducing the number/removing alcohol adverts on these nights could be valuable, similar to the way **the law has now prohibited fast food from being advertising during children’s** broadcasting.

A restriction on “freebies” given out with alcohol would be likely reduce the amount of alcohol purchased (and subsequently consumed). The **Speights’** overalls are a good example, but **Superliquor** almost always has some freebies to give away – if you buy a certain type or amount of alcohol.

A limit (or further regulation) on size and/or location of alcohol sponsorship logos might be a good middle ground for sports teams, etc. It allows for the funding to still occur, but has the opportunity to regulate how much of an impact that funding can have on the market. Prohibiting **primary** sponsorship of professional teams by alcohol suppliers is another option.

In considering the legislative changes Parliament must consider the impact of new, non-traditional medias. We will address this later in our submission.

¹³ ¹³ Marina Bosque-Prous, Albert Espelt, Anna M Guitart, Montserrat Bartroli, Joan R Villalbi, M Teresa Brugal “Association between stricter alcohol advertising regulations and lower hazardous drinking across European countries” *Addiction* 1 April 2014

¹⁴ ¹⁴ Marina Bosque-Prous, Albert Espelt, Anna M Guitart, Montserrat Bartroli, Joan R Villalbi, M Teresa Brugal “Association between stricter alcohol advertising regulations and lower hazardous drinking across European countries” *Addiction* 1 April 2014

¹⁵ Measham, n4 at 262

11. How would these proposed restrictions work in practice to reduce alcohol-related harm (e.g. crime, disorder, negative public health outcomes)?

Earlier in our submission we provided evidence that alcohol consumption led to an increase in sexually transmitted diseases¹⁶, damage to property, poor academic achievement and trouble with the authorities¹⁷. We have also presented evidence showing the forecasted reduction in alcohol consumption if people – young and old – are exposed to less alcohol advertising.

The watershed ensures that those who will be watching TV at the time are more likely to be of an age where they are already sensible with alcohol, or less likely to be fooled by the puff of advertising.

The freebie restriction denies off-licenses, breweries and other alcohol suppliers the chance to give consumers an incentive to buy their product. This should reduce impulse purchases and general demand for the product.

Limiting and regulating size and location of alcohol branding on major sports teams would ensure that the impact of the alcohol industry's sponsorship would also be limited. A giant *Lion Red* logo in the centre of Mount Smart Stadium is obviously going to have more market impact than a small logo on the shorts of a Warriors player, or off to the side of the field. A complete veto would obviously have the most effect, but would be the hardest to implement while still maintaining funding for the teams.

12. What evidence is available that your proposal(s) would work?

¹⁶ Virginia Braun “She’ll be right? National identity explanations for poor sexual health statistics in Aotearoa New Zealand” (2008) *Social Sciences and Medicine* 67, 1817

¹⁷ Ozgur Avci, Michael Fendrich “Student Drinking-Related Problems in an Urban Campus: Implications for Research and Prevention” *Journal of American College Health*, 58, 6 at 545

Television advertising is a logical place for the restrictions to begin. A study by ThinkTV **NZ showed the impact of television adverts on a person's brain: the advertisements had** a far more significant impact on a person than any other form of advertising media. Furthermore, the impact of other forms of media was greatly improved when the person had also been exposed to the television commercial¹⁸.

Television campaigns have been repeatedly shown to have the greatest outreach of all media; 98% of New Zealand households have a television¹⁹. The number of people watching television and the length of time they spend watching it is also increasing despite social and technological changes²⁰. An analysis by Mediacom found that television accounts for one third of ad-drive sales²¹, meaning that this form of advertising has a significant impact on the market. Thus, television is both the most viewed and the most influential advertising media.

A Nielsen Media study found that the average New Zealander spends 3 hours, 22 minutes a day watching television. Of this time, 103 cumulative hours of viewing occur during peak viewing time – from 5.30pm till 9pm²². If the broadcasting of alcohol advertisements was prohibited until after 9pm this would dramatically reduce the reach of these adverts, in turn, as per our research, this would reduce the impact of the adverts and deter drinking habits from being adopted or continued.

Singapore does not allow alcohol advertising during programs intended for children. Their alcohol consumption per capita (in litres of pure ethanol, 2003-05) was 0.55, **compared to NZ's 9.12. Russia's was 18 litres in 2010. In 2011 Russia banned all alcohol** advertising and it has dropped to 13.5, a 25% decrease over 2-3 years (Oct, 2013).

Sport has been suggested to be one of the primary, if not the dominant, medium for the promotion of alcohol and drinking to the general population, with the majority of advertising spending, and advertising placement, occurring in sport²³. Work from New Zealand²⁴ and Australia²⁵ **shows that sponsorship of sports' participants or athletes is** associated with more hazardous drinking. Limiting this would logically reduce the association and the impact of the advertising on the drinking culture.

The third-party buyer effect states that whenever goods and services are provided at **zero cost to the buyer (such as "freebies" given away with alcohol purchases)**, consumption of that thing is likely to rise dramatically unless limited in some other way. This is why 7-11 experiences a huge increase in sales of their slurpees when they offer **free slurpees. It's also why offering a free product with alcohol will increase the sales,** and therefore consumption, of alcohol. Limiting it will have the opposite effect.

¹⁸ <http://www.thinktv.co.nz/insights/research/television-ads-and-the-mind/>

¹⁹ <http://www.tradingeconomics.com/new-zealand/households-with-television-percent-wb-data.html>

²⁰ <http://www.thinktv.co.nz/wp-content/uploads/Television-and-online1.pdf>

²¹ <http://www.thinktv.co.nz/insights/research/tv-response-the-new-rules/>

²² <http://www.thinktv.co.nz/wp-content/uploads/TVTrends-2012.pdf>

²³ Center on Alcohol Marketing and Youth 2004. Alcohol Advertising on Sports Television 2001 to 2003. Available at: http://www.camy.org/bin/s/a/Alcohol_Advertising_on_Sports_Television.pdf

²⁴ O'Brien K, and Kypri K. Alcohol industry sponsorship of sport and hazardous drinking among New Zealand sportspeople. *Addiction* 2008; 103(12): 1961-6.

²⁵ O'Brien K.S., Miller P.G., Kolt G.S., Martens M.P., Webber A. Alcohol industry and non-alcohol industry sponsorship of sportspeople and drinking. *Alcohol and Alcoholism* 2011; 46: 210-13.

13. What other interventions could potentially be tried in future?

Despite television advertising being a significant part of the market, it is not the only means of advertising alcohol. There are also the traditional forms of advertisement – billboards, print promotions, radio jingles – and new, emerging technologies – internet advertising, phone apps and social media campaigns. In the future it may be warranted to investigate means to curb these media too.

If the aim of the restrictions is to reduce the number of young people drinking, then it would make sense to target these developing forums, for these are more commonly used by adolescents. This is more challenging because often these media are not based in New Zealand and transcend nations²⁶; while all New Zealand-based websites may have to provide 5 non-alcohol adverts to every alcohol promotion, it is impossible to place restrictions on overseas websites. However, approached from a different angle the regulation could target the companies, rather than the media, to overcome this issue.

There is merit in the argument that alcohol could not be advertised in print media unless more than a specific percentage of readers were over the legal drinking age. Furthermore, the limitation of alcohol advertising except to convey precise information about the product could also deter young people from the glamour of alcohol.

In addition to this the products themselves must be considered, especially in light of the **recent innovations in regard to “powdered alcohol” coming on to the market, though not** exclusively so. Any regulations formed would have to be able to adapt to these changes in the market. The powdered alcohol, or palcohol, is of particular concern given its resemblance to sherbet powder. It is already being viewed as possibly enticing younger consumers to over indulge, **especially given its resemblance to sherbet and “fun dip”**.²⁷ The branding of products is another point of concern, with palcohol again a prime example. Although the addition of the p at the beginning of alcohol can be justified given the nature of the product **it is unlikely that the creators are oblivious to the “pal”** connotations. Advertising alcohol as friendly will, again, target a younger market and possibly cause more harm from inexperienced alcohol users. Where market innovations create products with as much potential for harm and abuse as this one they must be regulated.

14. Why should these other interventions be considered?

²⁶ Casswell, at 478

²⁷ <http://www.cbsnews.com/news/palcohol-powdered-alcohol-may-present-serious-health-risks/>

These interventions should be considered because as the government regulate television advertising the alcohol companies will investigate new media. Young people are increasingly spending more and more time on social networking sites and the internet; this provides a valuable opportunity for alcohol advertisements to entice them. The alcohol industry is ultimately a business – while they do take some responsibility for safe drinking practices – they want to make money and attract customers²⁸.

Non-television advertisements make up two thirds of alcohol promotion, this proportion will only increase with greater regulation. However, television is still the most likely place for a person to be influenced, thus it is an appropriate and effective starting point.

Any product which could be interpreted as being marketed to an audience that is below the legal purchasing age of alcohol should similarly be restricted. Though not a concern that is wholly of an advertising nature, the branding and target market of a product must be concerned within this remit.

²⁸ ibid at 10

15. If further restrictions to **alcohol sponsorship** are necessary, what do you think should be done?

n/a

16. How would these proposed restrictions work in practice to reduce alcohol-related harm (e.g. crime, disorder, negative public health outcomes)?

n/a

17. What evidence is available that your proposal(s) would work?

n/a

18. What other interventions could potentially be tried in future?

n/a

19. Why should these other interventions be considered?

n/a

Impacts of proposals

20. Who would be affected by your proposals to restrict **alcohol advertising** and how?

We hope that any restrictions on alcohol advertising would have a positive impact on all New Zealanders by reducing the consumption of alcohol. Over time we hope this would lead to a decline in the New Zealand drinking culture. We very much agree with the **ALAC slogan “It’s not the drinking, it’s how we are drinking”**,

Off-license liquor stores will always have customers, especially in a University city. It is more likely to upset the sports teams who are reliant on the funding it generates, and the breweries who are reliant on the sales it generates. Hopefully the sports teams will be able to secure funding from elsewhere.

Our proposals to restrict alcohol advertising would, in turn, affect the alcohol companies and the agencies they employ to make their promotions. It could also lead to problems for television networks who would have to source alternative advertisers for prime time television, and this could result in a poorer standard of television broadcasting for New Zealanders.

New Zealand needs to find a healthy balance that reduces the impact of alcohol advertising, but not at a cost to the advertising or broadcasting industries. The positive **influence of a reduction in New Zealand’s binge drinking culture should not be underestimated** to the benefit of corporate activity.

21. How might these proposals impact on:
- alcohol consumption, particularly among young drinkers and heavy drinkers;
 - the perception of alcohol as an everyday commodity, particularly among children and young people;
 - alcohol-related harm;
 - businesses, such as the alcohol and advertising industries;
 - the recipients of alcohol sponsorship funds; and
 - different populations – e.g. **youth, children, Māori, Pasifika, lower socio-economic** populations.

The proposals should have the greatest impact on children's **alcohol consumption (now and in the future)**, because they would no longer be exposed to alcohol advertisements on television, unless they were still watching television after the watershed.

There is “a link between major sporting events and increased sexual, physical and emotional violence against women, a link that has already been identified by the **New Zealand Police**”²⁹. There is also a link between alcohol consumption and domestic violence. If we reduce the alcohol consumption associated with sports through advertising, it may reduce domestic violence.

St John's, Dunedin Police, Red Frog, OUSA, Campus Watch and the University would hopefully all be affected positively by the proposals – they would not have to expend as **many resources on the “clean-up”** of alcohol related events.

While this submission has focussed on the impact on young adults, there is evidence that reduced exposure to alcohol has the same effect on older adults too. If the whole of New Zealand are less driven to drink then the culture of drinking will, over time, wane, leading to a much healthier New Zealand.

22. Who would be affected by your proposals to restrict **alcohol sponsorship** and how?

A large number of Dunedin businesses and sports teams would be affected. Sponsorship limits would restrict their access to funding in ways that are highly likely to be detrimental to these businesses, if they are unable to obtain sponsorship outside of the alcohol industry.

²⁹ <http://www.2shine.org.nz/library/Documents/RWC%20special%20collection/mitigatingriskofvawincrsgduringrwc.pdf>

23. How might these proposals impact on:
- alcohol consumption, particularly among young drinkers and heavy drinkers;
 - the perception of alcohol as an everyday commodity, particularly among children and young people;
 - alcohol-related harm;
 - businesses, such as the alcohol and advertising industries;
 - the recipients of alcohol sponsorship funds; and
 - different populations – e.g. youth, children, Māori, Pasifika, lower socio-economic populations.

Young people may potentially be influenced toward the idea that drinking is a good **thing through it's associations with other entities. However**, those in the alcohol industry can retain a degree of freedom in promoting their product while maintaining a mutually beneficial relationship with the recipients of their sponsorships funds. Any restrictions must be balanced against the good that sponsorship does. It funds a lot of sport in Dunedin and across New Zealand — losing the funding for this could be very harmful

Ongoing and new challenges

24. What ongoing and emerging challenges does the Forum need to take into account when considering whether further restrictions on **alcohol advertising** are necessary to reduce alcohol-related harm?

As stated earlier, an estimated 2/3 of alcohol marketing is in new media³⁰, furthermore online advertising budgets are meant to increase rapidly in the next few years. The amount of time being spent online is developing at a rate three times faster than the internet – the computer is beginning to rival the television in terms of hours spent in front of it³¹!

Any new restrictions must not be considered a permanent solution. They must be broad enough to encompass new, currently unknown, forms of advertising. There must be a requirement for review of the regulations to make sure they are current 20 years from now. The regulation of advertising will not be a one-off event!

25. What action, if any, could be taken to address these matters?

Language within the legislation that is not applicable solely to current forms of media.

26. What ongoing and emerging challenges does the Forum need to take into account when considering whether further restrictions on **alcohol sponsorship** (e.g. of sporting, cultural and other events) are necessary to reduce alcohol-related harm?

³⁰ S Casswell “Current status of global marketing policy an urgent challenge for global governance” *Addiction* (2012) 107(3), 48

³¹ <http://www.thinktv.co.nz/insights/research/television-and-online-social-media/>

There will be an immediate challenge in finding funding to make up for the loss that teams would experience if alcohol sponsorship were restricted.

The alcohol industry, like tobacco, will always try to find a way around the measures. Suits similar to those brought against the Australian govt for implementing plain-packaging on cigarettes could be brought.

Future events that New Zealand will be bidding for will be impacted by this. Heineken **was a primary sponsor of the Rugby World Cup, having spent €100 million to ensure it remains a global sponsor until 2015 (since the 1995 RWC). That's a lot of money for the IRB to lose.**

27. What action, if any, could be taken to address these matters?

Other comments

28. Do you have any other comments?

Law for Change Otago thanks the Ministry of Health for the opportunity to submit on this issue.

Lion submission to the Ministerial Forum on Alcohol Advertising & Sponsorship

April 2014



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1. Introduction – Lion’s business and strategy

Lion is committed to being part of the solution to misuse and underage drinking. Recent regulatory measures should be allowed time to take effect before New Zealand yet again reviews the system

Lion is the largest food and beverage company in Australasia and is New Zealand’s biggest beer, wine, spirits and cider manufacturer and distributor.

As such, we have the most to gain from a sustainable, pro-social drinking culture. We also have the most to lose from misuse, which is an attack on our social licence.

We see ourselves as a key part of the solution to harmful alcohol consumption and we are highly supportive of genuine, evidence-based initiatives.

This review comes at the conclusion of a very long policy discussion, which culminated in the Sale and Supply of Alcohol Act 2012 (SSAA).

The SSAA process itself followed more than a decade of perpetual and highly repetitive review of the policy settings for advertising and sponsorship:

- 1998 review of the Advertising Standards Code for Alcohol Advertising chaired by Sir Ian Barker.
- 2003 review of the Advertising Standards Code for Alcohol Advertising chaired by Sir Michael Hardie Boys
- 2006 – Ministerial Review of the regulation of advertising
- 2010 Law Commission Review of the Regulation of Alcohol in NZ
- 2010 review of the Advertising Standards Code for Alcohol Advertising chaired by Hon Sir Bruce Robertson

This kind of regulatory uncertainty is highly disruptive to the business planning process, adds unnecessary costs and deters investment into the New Zealand economy.

Recent decisions to underpin responsible advertising compliance via the SSAA should be given time to take effect before we rush to make further changes. Further, Government should formally commit to a period of regulatory certainty following the Ministerial Forum process.

Lion makes a major contribution to New Zealand

Lion makes a significant contribution to the New Zealand economy generating about \$818m¹ worth of economic activity for the country and employing around 1,160 people directly. Indirectly, Lion’s operations create employment for 3494 full time equivalents.

We are one of New Zealand’s largest purchasers of agricultural products buying approximately \$96m worth of inputs from New Zealand farmers each year. We are an integral part of the retail and hospitality industries, and own and operate 39 Liquor King retail liquor stores throughout New Zealand.

¹ Deloitte Access Economics, Lion Economic Contribution FY2013, March 2014 (direct and indirect contribution)

We take our responsibilities very seriously

Our products are a fantastic accompaniment to sociability, providing great enjoyment for those who consume them.

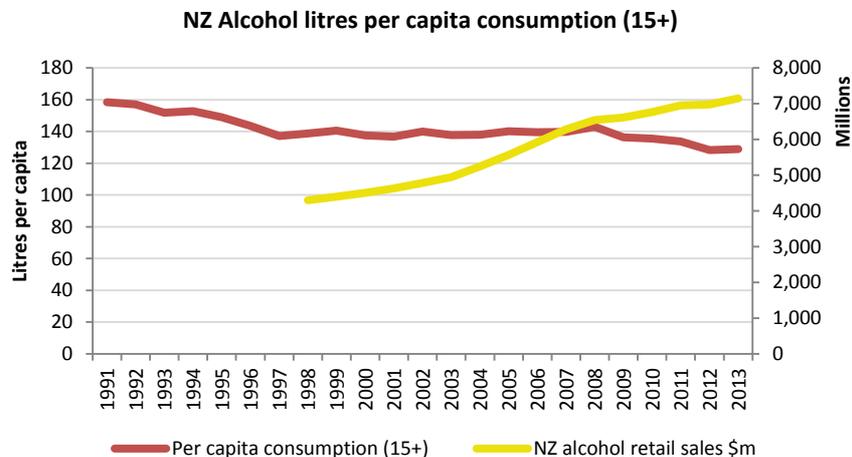
At Lion, we believe in being a responsible producer, distributor and retailer. We want a high value, high quality alcohol market that supports a vibrant hospitality and retail industry – that’s good for our business and it’s good for New Zealand’s economic and social wellbeing.

The misuse of our products undermines sociability and is therefore at odds with our core purpose, which is to *“Enrich our world everyday by championing sociability and helping people to live well”*.

We take this commitment very seriously. It is the single-most important guide to how we do business and we go to great lengths to ensure we do not contribute to the problem of misuse. Rather, we aim to play a leading role in promoting a positive drinking culture.

Lion can achieve growth without misuse

Lion’s success has been built on high quality branded products. We operate in a mature market. While per capita consumption of alcohol in New Zealand has trended down since the 1980s, the value of the market at retail excluding taxation has increased from \$4.3bn in 1998 to \$7.2bn in 2013.²



While, as we will argue below, per capita consumption should not be the primary focus of alcohol policy, this demonstrates that Lion does not need to increase per capita consumption to achieve growth. In any case, should all adult New Zealanders drink responsibly, Lion’s volume would actually increase.

In a mature market, we’re not playing a volume game. Lion’s strategy is to invest in premium brands and to innovate. We aim to win market share from competitors and encourage consumers to trade up to higher value brands.

² Euromonitor Alcoholic Drinks (total value Retail Selling Price (‘RSP’) NZ\$m); Per capita consumption (Statistics NZ: Popn by Age; Alcohol Available for Consumption)

Marketing and sponsorship rights are therefore critical to our business model. They underpin brand equity and therefore market value. Innovation, including in lower alcohol products like Steinlager Light, Macs Light, Emerson's Bookbinder and Wither Hills Early Light is incredibly hard without the right to market. Indeed, without marketing, the primary competitive dynamic would be retail price discounting.

Lion is supportive of our Associations' submissions

As a member of the Association of New Zealand Advertisers (ANZA), Brewers Association of Australia and New Zealand, the Distilled Spirits Association of New Zealand, New Zealand Winegrowers and The Food and Grocery Council, Lion supports the submissions of those industry organisations.

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2. Executive summary

Policy should not treat consumption and harm as one in the same. 'It's not the drinking, it's the way we are drinking' ...

It is important that the Government, the Ministerial Forum and all interested parties distinguish between misuse of alcohol and moderate consumption, which is a normal, enjoyable part of life for most adults. Consumption and misuse are not one in the same and policy should not view them as such.

The vast majority of New Zealanders enjoy alcohol responsibly and trends in consumption show this is the case. There is a strong body of evidence to suggest light and moderate consumption can confer a range of health benefits.

While there must be a serious, whole of community effort to tackle misuse, it should not be the objective of government policy to reduce consumption population-wide. The target of policy should be to reduce consumption among those who drink to excess and to reduce underage consumption.

There is no compelling evidence that marketing or sponsorship lead to misuse or underage drinking...

In reviewing the marketing of alcohol, the Ministerial Forum should consider the question of whether there is real, compelling evidence that responsible advertising encourages excessive consumption or is a major factor in causing minors to take-up drinking.

The campaign for greater marketing controls or outright bans is founded on poor quality research, which often appears to have been shaped in an attempt to discover a link. Despite this, it has always failed to demonstrate that marketing or sponsorship is a significant influence. Evidence from New Zealand and overseas jurisdictions where partial or complete bans have been implemented demonstrate no impact on alcohol related harm.

Exposure to advertising is routinely conflated with behavioral change despite the lack of any evidence to support such a result. Lion believes that the Ministerial Forum should be careful to distinguish between quality, peer-reviewed research, experiments, and surveys or commentary produced by anti-alcohol activists seeking to create the impression that population-wide interventions are the only viable options.

Marketing plays a key role in encouraging a high value, competitive and profitable alcohol market ...

Lion wants a high value, competitive and profitable alcohol market and marketing plays a key role in achieving this. Without it, competition will be on price alone via deep cut discounting. While price is not a key driver of misuse, it seems strange that the very same campaigners who are arguing for increased taxes are at the same time making a case for advertising restrictions that will effectively reduce prices. With further significant marketing constraints it would become increasingly hard to innovate new products, including lower alcohol options. Innovation is key to maintaining higher value in the marketplace.

The current self-regulatory system is working well and is the most agile and cost effective approach to ensure responsible marketing...

Lion believes that an objective review will demonstrate that the current system of self-regulating alcohol advertising is world-class and meets community expectations. The involvement of industry creates a system with the agility to evolve as marketing changes. As an active player and shaper of the system, industry is fully supportive and applies its spirit and intent.

The Forum should not be seduced by distractions about 'lifestyle' marketing, sponsorship, internet and social media. These elements of the marketing mix in no way encourage misuse or underage drinking. They are subject to the same co-regulatory standards as other forms of marketing.

When dealing with powerful socio-cultural drivers, regulation is nearly always fool's gold ...

Alcohol is already one of the most heavily regulated products in New Zealand. It is regulated in terms of what can be manufactured, by whom and where it can be produced, how it can be labelled and marketed; and by whom, where, when and to whom it can be sold. And, to a large degree, its price is also controlled by excise tax.

So with all that regulation, why do people still misuse alcohol? It is a fallacy that drinking behaviours are mostly influenced by the availability of alcohol, its marketing or its price.

Culture is like a balloon. Unless you tackle the real drivers of a cultural issue, you will simply displace it with often unpredictable consequences. Demand for alcohol among misusers is price and marketing inelastic. If we are serious about achieving a real, sustainable change in the drinking culture among those who misuse, we need a genuine commitment to tackling the real underlying socio-cultural drivers, rather than playing at the edges with price and additional marketing restrictions.

Rather than 'shock and awe' campaigns which don't connect with drinkers' sense of the likely consequences for them, we must present them with believable social and personal consequences. We must make a sustained effort to make it socially unacceptable to drink to the point of drunkenness and to behave in an anti-social manner.

Parental and peer norms are the leading influences on age of uptake and lifelong drinking behaviour. Efforts to tackle misuse should be directed at positively influencing those norms ...

Research demonstrates that the most effective ways to reduce alcohol misuse are to:

- address the norms and patterns of consumption in those groups who are persistently drinking to excess and preventative measures
- support parents in role-modeling positive drinking behaviors for their children and prepare them for the adult world. Help them coach their children effectively to interpret the many cultural signals on alcohol they receive in their community and in media
- target peer norms to hero responsible drinking and socially stigmatise misuse, underage drinking and anti-social behaviour

We welcome the acknowledgement in the terms of reference that the impact on competition, business, jobs and the creative and sporting industries needs to be fully considered ...

Additional regulation is not a consequence-free course of action. It comes with a range of both predictable and never envisaged consequences.

It would be a great shame if important investment in the creative and sporting industries were lost along with inward investment into New Zealand, for no good reason.

There are major questions concerning the legality of further restrictions ...

Expert legal opinions in respect of the New Zealand Bill of Rights 1990 and international trade law suggest legislators would be met with significant complexities should they be minded to explore additional restrictions.

3. Engagement with industry is an important part of the solution

Lion has always been, and continues to be, open to genuine collaboration to change negative aspects of New Zealand's drinking culture.

A vibrant drinking culture, where people drink for enjoyment and sociability, is the key to our business success.

Perhaps ideologically motivated, there is an increasing militancy in parts of the health lobby. Industry, so their argument goes, should play no role whatsoever in the debate on the misuse of food and alcohol. Industry, they argue, cannot be objective because it is always driven by a profit motive.

This ignores all the central tenets of sustainability. We see no contradiction between the long-term pursuit of profit and responsible decision-making. We routinely forsake legal sources of revenue or add costs to our business in the knowledge this is the price we pay to be a successful business in the long term enjoying the support of the community.

Further, if all adult New Zealanders drank in moderation, total alcohol consumption would increase significantly, while harm would reduce.

On the other hand, that no-one in the health lobby could be influenced by self-interest, the need to promote their work, to attract an income or institutional, religious and political views is a fallacy in equal measure.

However, in a world of modern campaign tactics, black must be black and white must be white. There appears no appetite for pragmatism, nuance or complexity in a debate where one is badly needed.

The Forum should be minded that every contribution to the debate, including Lion's, deserves both consideration and scrutiny.

There are some in the health lobby in New Zealand who have never met a health challenge that deserves anything other than a regulatory solution. A steady stream of poor quality, PR-lead research and an 'ends justify the means' approach to interpretation of the evidence-base fails the standards expected by the community from respected academic brands.

Very often this 'trench-warfare' advocacy is directly or indirectly publicly funded. Very rarely has it or would it pass the rigor of peer review. Much of it sets out deliberately to make the case for population-wide interventions on price, advertising or supply, consistently ignoring the complex drivers of culture and the challenge to change it.

Real progress could be made through engagement on common ground. Most of the major developments in healthy eating and drinking have been achieved with the active involvement of industry, including lower alcohol beer, health information labelling and consumer education campaigns like 'Cheers!'. Consumer brand marketing companies like Lion know everything there is to know about what, when who, why, how people drink our products and we have an enormous amount to contribute to solutions to reduce misuse.

4. Trends in NZ alcohol consumption and implications for policy

The enjoyment of alcohol clearly enjoys strong support from the community.

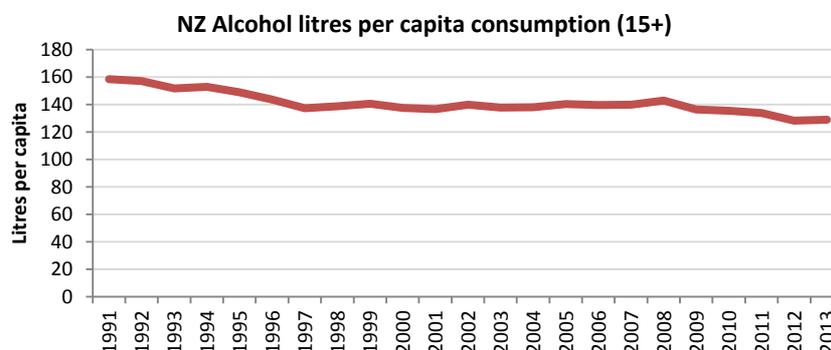
Most adult New Zealanders drink alcohol and according to the Ministry of Health 2011/12 New Zealand Health Survey, 81 percent of those that do, do so light to moderately.



There has been a slight reduction in the proportion of all New Zealanders who drink alcohol in recent years. Between 2006 and 2007 and 2011 and 2012 there was a significant drop in consumption among 15-17 year-olds. Between 2009 and 2011, the number of 18-24 year-olds identifying as non-drinkers doubled and the rate of hazardous drinking among young people aged 18-24 has also reduced significantly in recent years.³ Further, there has been a substantial delaying in the 'age of alcohol initiation' between 2003 and 2009/10 despite increasing alcohol marketing and the growth of on-line and social media channels.⁴

While, as we will argue below, New Zealand policy makers should not be focussed on reducing overall consumption as an overriding policy objective, the reality is that New Zealanders overall have been reducing their alcohol consumption for some years.

Statistics⁵ suggest overall per capita consumption has been trending down since the 1980s.



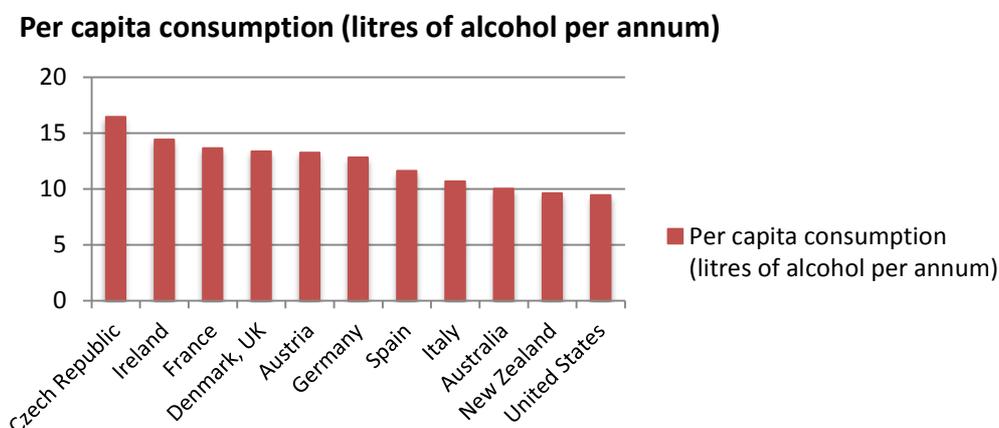
³ Attitudes & Behaviours Towards Alcohol Survey, Health Protection Agency (HPA Survey); 2012 Hazardous Drinking in NZ Report, Ministry of Health (MoH Survey)

⁴ ALAC Monitor, 2011

⁵ Per capita consumption (Statistics NZ: Popn by Age; Alcohol Available for Consumption)

One in three New Zealanders report that they are actively cutting back on their drinking, while 40% of drinkers reported they were drinking less than the prior year.⁶

A recent World Health Organisation report provides an indication of the levels of consumption in similar wealthy developed countries:⁷



Nations with much higher per capita consumption than New Zealand have experimented with significant restrictions on alcohol marketing for many years, including Ireland and France, upon which the recent *Law Commission Report* would have New Zealand base its policy.

Policy implications

The majority of New Zealanders do not have a problem with alcohol.

There is a wealth of scientific evidence demonstrating that the moderate consumption of alcohol may afford many potential health benefits. The evidence suggests that for many people it is more beneficial to drink moderately than to abstain.⁸

Given the responsible behaviour by the majority of New Zealanders, the enjoyment they experience and the broader social, economic and health benefits for the nation, there is no case for population-wide measures to reduce consumption beyond underage drinkers and those who misuse alcohol.

The objective of New Zealand alcohol policy should be to reduce the number of potentially hazardous drinkers and maximise the benefits the community enjoys as a result of responsible consumption. The Health Promotion Agency states in its Annual Report 2013:

“Drinking alcohol moderately results in less alcohol-related harm than heavy drinking. Taking action to change drinking behaviour from heavy to moderate drinking levels is, therefore, key to reducing harm from alcohol.”

⁶ Attitudes & Behaviours Towards Alcohol Survey, Health Protection Agency (HPA Survey); 2012 Hazardous Drinking in NZ Report, Ministry of Health (MoH Survey)

⁷ http://www.who.int/substance_abuse/publications/global_alcohol_report/profiles/en/

⁸ The burden of death, disease and disability due to alcohol in New Zealand, ALAC Occasional Publication No. 23 February 2005; R Doll, R Peto, E Hall, K Wheatley, R Gray, Mortality in Relation to Consumption of Alcohol: 13 Years' Observations on Male British Doctors BMJ 1994;309:911-918 <http://www.bmj.com/cgi/content/abstract/309/6959/911> ; Leon A Simons, John McCallum, Yechiel Friedlander, Michael Ortiz and Judith Simons Moderate Alcohol Intake is Associated with Survival in the Elderly: the Dubbo Study MJA 2000; 173: 121-124

We therefore urge the Forum not to be confused into believing that consumption and harm are one in the same.

As the Health Promotion Agency culture change campaign says: "It's not the drinking, it's how we're drinking". More accurately, it might say that it's the way a small proportion of the population is drinking. While there is no evidence suggesting advertising has an influence on consumption levels at all, even if alcohol advertising were to encourage drinking at responsible levels it should be of no concern to the Forum.

The Forum needs to separate evidence from opinion. Many engage in the debate with deep held views influenced by their own personal moral perspectives. Some still hold views associated with the Temperance movement of the late 19th and early 20th Century, which equated alcohol consumption with sin. This historical baggage influences many to call for measures to reduce drinking overall, not simply problem drinking.

In this vein, one of the common refrains from anti-alcohol activists is that alcohol advertising 'normalises' alcohol consumption. Few New Zealanders would consider there is anything wrong with moderate, responsible consumption being regarded as 'normal'. In fact, reinforcing images of pro-social drinking is one way of contributing to a more responsible drinking culture. It is irresponsible drinking that should not be 'normalised'.

Some activists argue that a reduction in problem drinking is the inevitable consequence of a reduction in drinking overall. On the same logic, a reduction in health benefits arising from moderate consumption is also the inevitable consequence of a reduction of drinking overall. Indeed, given that problem drinkers are marketing and price inelastic we would be more likely to see a reduction of benefits without a reduction in harms.

There needs to be some policy rigour. The approach to alcohol must clearly be more complex and nuanced than that applied to illegal drugs, new psychoactive substances.

Lion acknowledges the vital importance of harm minimisation approaches to reduce alcohol misuse among hazardous drinkers (including what the draft New Zealand Drug Strategy terms 'problem limitation'). We also agree with the application of sensible controls on supply such as liquor licensing, host responsibility and a legal purchase age.

However, we believe government should clarify the application of the 'demand reduction' pillar contained in the draft National Drug Policy as it relates to alcohol to make it clear that it applies specifically to hazardous and underage drinkers.⁹ The "wider Government objectives" outlined in the Ministerial Forum's Terms of Reference are very sensible and Lion supports these, which are to:¹⁰

- *reduce the harm caused by alcohol use, including crime, disorder and negative public health outcomes;*
- *target the key drivers of harm, with a focus on reducing heavy drinking;*
- *implement an efficient and sustainable solution to addressing alcohol-related harm;*
- *minimise the regulatory impact of alcohol law reform on New Zealand's economic performance overall; and*
- *minimise the impact of alcohol law reform on low and moderate drinkers.*

However, later, the terms of reference say the Forum's "assessment of options for further restrictions on alcohol advertising and sponsorship should include the likely effect of any changes

⁹ Ministry of Health. 2013. A New National Drug Policy for New Zealand: Discussion Document. Wellington: Ministry of health

¹⁰ Ministerial Forum on Alcohol Advertising and Sponsorship: Terms of reference, point 7

on (among other things):

- alcohol consumption, particularly (our emphasis) among young drinkers and heavy drinkers;
- the perception of alcohol as an everyday commodity, particularly among young drinkers and heavy drinkers¹¹

This is similar to some language from the *National Drug Strategy* quoted in the *Law Commission Report*, where the term “particularly” again ‘sneaks’ in, potentially confusing policy goals in respect of alcohol and illegal drugs and implying there might be a strategy to reduce overall consumption reaching beyond the groups outlined:

The *Law Commission Report*¹² quotes the *National Drug Policy* to suggest it commits New Zealand:

“to prevent or delay the uptake of tobacco, alcohol, illegal and other drug use, particularly in Maori, Pacific peoples and young people” and “to reduce harm to individuals, families and communities from the risky consumption of alcohol (our emphasis).”

It then applies the longest of ‘long bows’ to suggest that because the *ASA Code for Advertising and Promotion of Alcohol (Advertising Code)* aims to ensure that liquor advertising is conducted:

“in a manner that neither conflicts with nor detracts from the need for responsibility and moderation in liquor merchandising and consumption, and which does not encourage consumption by minors (their emphasis),”

this goal is “clearly not aligned” with the *National Drug Policy* and:

“As a result, in our view, it is inherently unlikely that a self-regulatory regime will result in sufficient restrictions of either advertising content or placement to achieve the government’s stated goals”.

This is clearly nonsense. The objectives of the *Advertising Code* plainly commit the industry to ensuring its marketing activity does not contribute to misuse and underage drinking. This is entirely compatible with any other efforts the Government may wish to make to prevent uptake among minors and reduce harm among those who misuse.

It is important that Government, the Ministerial Forum and all interested parties distinguish between misuse of alcohol and moderate consumption, which is a normal, enjoyable part of life for most adults. Consumption and misuse are not one in the same and policy should not view them as such.

¹¹ Ministerial Forum on Alcohol Advertising and Sponsorship: Terms of reference, point 12

¹² Law Commission Report: Alcohol in our Lives: Curbing the Harm, para 931

5. The intent and effect of alcohol marketing and sponsorship

Why do we use marketing and sponsorship?

The purpose of liquor advertising is to influence brand choice, not to increase per occasion or total consumption. Liquor advertising is designed to influence consumers to choose particular categories or brands when they are buying alcohol.

This is no different to the advertising of, say, shampoo, where the objective of the advertising is not to encourage people to wash their hair more often, but rather to choose one brand over another.

Like advertising, sponsorship is an important way to promote and differentiate brands. Alcohol brands invest in sponsorship to generate economic return through growth in brand awareness, preference and market share. Sponsorship enables a brand with a legitimate means of targeting adult consumers to encourage the choice of one brand over another, in just the same way as any other form of advertising.

We understand drinkers and we own brands they trust – we can be an important part of the solution to misuse.

Our strength is communicating to drinkers. We know what makes them tick, how to communicate to them in a way they engage with and we manage brands they trust.

According to our consumer research, the biggest influence on drinking behaviour - the way people drink – is the nature of the drinking occasion and the people we are with.

Consequently we tailor brands and marketing to fit different types of social occasions and events, whether that be drinking at the pub with mates, sporting occasions, family occasions, dining out with a partner, at barbeques and at nightclubs.

When anti-alcohol activists create fear about 'lifestyle marketing,' this is effectively what they are referring to. In fact, there is nothing sinister about this type of marketing. In reality our aim is simply to encourage consumers to choose our brands rather than those of our competitors at popular drinking occasions. New Zealanders are sufficiently intelligent and sophisticated to understand this and interpret our marketing sensibly. They have plenty of practice and do so with every other product they purchase.

We are using our brands and marketing rights to encourage responsible drinking.

Lion is committed to delivering responsible drinking messages by way of marketing and sponsorship. Further restrictions would constrain our ability to deliver such messages. This is a selection of our current and recent initiatives:

Steinlager's Be The Artist Not the Canvas

As one of New Zealand's most trusted brands, Steinlager has the ability to carry a message as a mate in a way that truly cuts through. The *Be the Artist Not the Canvas* campaign combines viral, print and outdoor marketing to make responsible drinking cool. Around 1.4 million New Zealanders have been served the online advertisement and our tracking suggests the campaign is cutting through strongly with 9 of 10 viewers stating a preference to be the responsible drinking 'artist' as opposed to the drunk and ridiculed 'canvas'. Furthermore, the predominant use of digital media for the execution of this campaign means around 79% of the advertising's online

views in the first month were by the campaign's target audience – males aged 25 – 34. For more information on *Be the Artist Not the Canvas* go to <http://www.steinlager.com/Whats-Happening>

Speight's Tackle a burger at the international Rugby 7s

Speight's ran a successful co-branded campaign with industry-wide culture change brand Cheers! at the International Rugby Sevens this year to encourage fans to pace their drinking and eat adequately to reduce the risk of intoxication.



Speight's and Cheers! champion responsible drinking and pro-social behavior at O Week



Speight's and Cheers! came together to deliver a responsible drinking message to Otago University students over the last two years of O Week.

Speight's created a dedicated social marketing campaign encouraging students to 'survive o-week in style'. The campaign involved a combination of outdoor, venue and social media advertising along with a burger giveaway to encourage students to seek out a range of responsible drinking and behavior tips on the Cheers.org.nz website.

We also supplied Water Warriors at all key event nights – responsible drinking champions wearing back-pack water dispensers.

Cheers! web traffic rose 228% over the campaign period in 2014. The average site visit for the duration of the campaign was two minutes and 22 seconds suggesting that visitors took time to read the content on the campaign page.

Lion Red – If you're drinking leave the driving to the pros

Lion Red used its association with the Hamilton 400 to discourage drink driving. This is an example of the communications employed:



Lindauer - Cheers! to the Ellerslie Twilight Races

Lindauer placed Cheers! at the heart of its garden party activation at the Ellerslie Twilight Races. Lindauer ambassadors gave out 1,000 complimentary bottles of Waiwera Water and encouraged guests to last the distance by staying hydrated. Lindauer neck tags reinforced this messaging and included a link to the Cheers! website.

Branded vans provided safe transport home and served to discourage drink driving.



We also use our product packaging and advertising to promote our consumer information and culture change in association with the Cheers.org.nz campaign, which is covered in more detail below. We are committed to increasing the use of our brands as assets to encourage responsible drinking in the community.

Major consumer trends offer further exciting opportunities.

The two biggest trends identified in our consumer research are 'wellness' and 'premiumisation'. From a 'premiumisation' point of view, consumers are drinking a little less but drinking up in quality. This is a positive development for Lion as we make a higher margin on our premium and craft brands. At the same time, that more drinkers are increasingly discerning about flavor and savor their drinks can only be a positive in a moderate drinking culture.

'Wellness' is a related trend across all food and beverage categories. Consumers want to live healthy lives and they are looking for products and brand that help them do so. In the alcohol category a key opportunity is lower alcohol products and Lion sees both commercial and social benefit in using its brands to innovate even more in this space.

In order to do this successfully we need to create products consumers actually want to drink and associate them via packaging and marketing and sponsorship with brands they know and trust. We have done so successfully with brands like Steinlager Light, Mac's Light, Emerson's Bookbinder and Wither Hills Early Light.

However, we also know from our experience in Australia that the success of mid-strength XXXX Gold was based on it being marketed like a traditional mainstream brand. The mix included sports sponsorship and a long running campaign showing how the beer fits with the outdoors Australian lifestyle. XXXX Gold is now Australia's largest beer brand.

The Australian experience and our New Zealand market research tells us that mid-strength beer has the potential to play a major role in supporting New Zealand consumers who wish to make responsible drinking decisions. Mid-strength beer hits a sweet spot where there is minimal flavor compromise.



In 2009 Lion launched Steinlager Edge in an attempt to create this category. However, despite using our most powerful brand, we were unable to successfully communicate the benefits of mid-strength due to the restrictions on talking to alcohol strength in marketing within the ASA Advertising Code.

If New Zealand is serious and pragmatic about offering consumers compelling lower alcohol product choices, we need to seriously consider whether mid-strength beer should be allowed the similar freedoms to communicate its benefits as low-alcohol beer enjoys.

It makes sound commercial sense for us to ensure our marketing targets legitimate consumers.

We target legitimate adult consumers in our marketing. To do otherwise would be a clear waste of marketing dollars. Our sponsorship and media team are tasked with profiling media and sponsorship opportunities that most effectively expose our brands to their adult target groups. Despite the commentary by some activists, internet and social media actually allow Lion to be even more targeted in our marketing, as is well illustrated by the success of the Steinlager & Cheers! "Be the Artist" campaign, we outline above.

6. Marketing is not a driver of alcohol misuse or underage drinking

The notion that alcohol advertising is a driver of harm is based on two misnomers.

- First, that advertising encourages drinking to excess; and
- Second, that exposure to marketing is a key factor in encouraging uptake, particularly among those below the legal purchase age.

Despite the best efforts of a range of researchers, no compelling evidence has been found to suggest that responsible advertising influences consumers to drink irresponsibly. In fact, the current co-regulatory system effectively allows no reference at all – neither overt nor implied - to the quantity of alcohol that a drinker should consume and the strict parameters effectively allow only brand marketing and price advertising.

In the event advertising has any effect on the drinking culture, it will be a positive effect given it depicts pro-social models of drinking – New Zealanders drinking responsibly with friends, family and food during life's sociable moments.

In short, there is no compelling evidence of a causal relationship between advertising and harmful drinking.

Given the maturity of the New Zealand alcohol market and the deep set socio-cultural drivers of drinking behaviours, there is no relationship between levels of advertising and overall consumption. Virtually all econometric, cross-sectional, and case studies have found that marketing has no or very modest effects on alcohol consumption.¹³

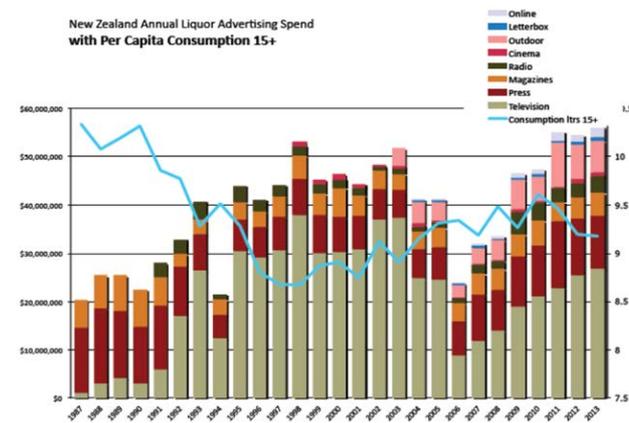
Further, while overall consumption and misuse should not be conflated, an increase in misuse among a significant proportion of drinkers as a consequence of an increase in marketing would be evident in population-wide per capita consumption figures.

Even if there were a relationship between advertising and per capita consumption for a small subset of consumers (and there is no evidence to suggest this is the case), it is surely unlikely to be among the small minority of problem drinkers who are very consistent in their drinking behavior regardless of external influences.

New Zealand statistics demonstrate no correlation between inflation-adjusted alcohol advertising expenditure and consumption.¹⁴

¹³ Broadbent, 2008; Neslon and Young, 2008; Nelson, 2007; Gallet, 2007; Lariviere et al, 2000; Duffy, 1999

¹⁴ Foundation for Advertising Research, March 19, 2014 – Alert 7/14



Over the past 27 years both expenditure and consumption have varied widely but independently of each other – indeed 1998 was the year of the highest marketing investment and lowest consumption. Over the long term between 1987 and 2013, per capita consumption for New Zealanders aged 15 and above has reduced by 9.8% from 10.33 litres in 1987 to 9.183 litres.

Per capita consumption began a long period of decline from 1 February 1992 when the de facto ban on radio and television advertising was removed, proving the ban on broadcast advertising had no effect on consumption levels. Given that TV and radio continue to enjoy the broadest reach of any media, despite the media fragmentation that began in the mid-2000s, this underlines the lack of relationship between advertising and consumption levels.

Analyses of partial or complete bans demonstrate they are ineffective.

While the New Zealand experience since the removal of the de facto broadcasting ban should play a leading role in the Forum’s analysis, the international experience also provides strong evidence for the ineffectiveness of advertising exposure restrictions.

Where outright bans have been employed overseas scientific evidence demonstrates them to have been ineffective. Restrictions tend not to correlate with per capita consumption or are associated with an increase.

Results from an international study of advertising bans in 17 OECD countries between 1977 and 1995 indicate that advertising bans did not result in a reduction in the number of ‘new’ drinkers, in alcohol consumption overall or alcohol abuse.¹⁵ Economic and deep-seated cultural factors are proven to be the important determinants of national drinking patterns.

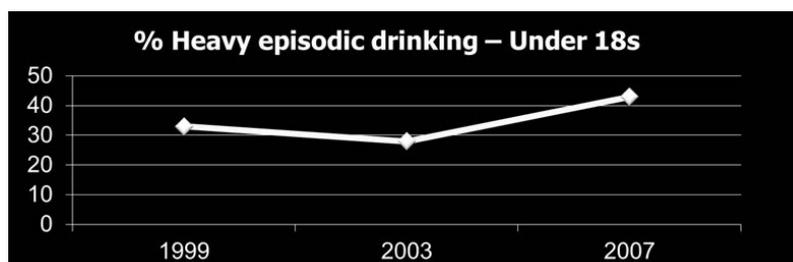
A 1999 report by the French Parliament evaluating the effectiveness of France’s advertising ban (‘Loi Evin’) concluded that no effect on alcohol consumption could be established.¹⁶ A slow decline in alcohol consumption was deemed not to be correlated with the Loi Evin and attributed to other factors.

Furthermore, despite the advertising ban, recent statistics coming out of France suggests more powerful social and cultural changes are driving an increase in episodic excessive consumption and hospital admissions. Heavy episodic drinking by French under-18s has increased from 30

¹⁵ Nelson, J.P. & Young, D.J. 2001. Do advertising bans work? An international comparison. *International Journal of Advertising*, 20(3), 273-296

¹⁶ Berger, G. et al. La Loi relative à la lutte contre le tabagisme et l’alcoolisme: rapport d’évaluation. La Documentation Française, 106

percent in 2003 to more than 40 percent in 2011 and is among the highest levels in Europe.¹⁷

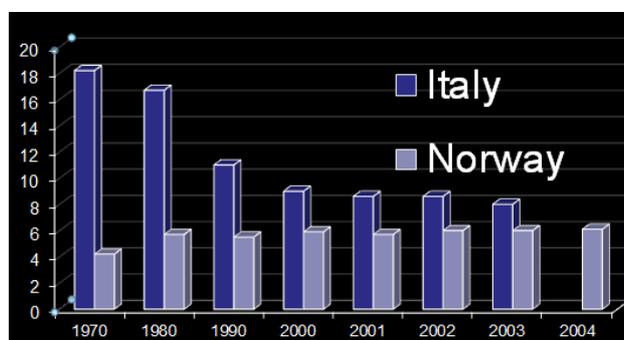


Consumption in the past 30 days amongst 16 year olds has also increased from 60 percent in 1999 to 64 percent in 2007.¹⁸

Several studies of the effects of alcohol advertising bans have been conducted in Canada, where some provinces have imposed advertising bans and subsequently lifted them. In Manitoba, a 7-year long beer advertising ban did not reduce beer sales, which actually increased over the course of the trial.¹⁹ There was no effect as a consequence of the lifting of a partial ban in British Columbia.

In Saskatchewan, a study concluded that 'the *change in legislation regarding alcohol advertising produced neither an abrupt permanent nor a gradual permanent effect on the pattern of total volume of sales. (...) Advertising does not (...) affect total consumption.*'²⁰

Elsewhere, Norway prohibits advertising but consumption continues to increase. Significant restrictions in Iceland, Sweden, Russia and Switzerland have not reduced harm. On the other hand in Italy, where alcohol advertising is permitted, per capita consumption is decreasing.²¹



The Ministerial Forum should examine the evidence-base directly and be careful not to repeat the mistakes of the Law Commission Report.

The *Law Commission Report*²² relies far too heavily on experimental research with major (and in many cases acknowledged) methodological limitations, while being too quick to dismiss these compelling econometric studies and analyses of real life restrictions and bans. In doing so, the *Law Commission Report* relies substantially on *Babor et al's 'Alcohol: No Ordinary Commodity'*, often uncritically accepting that publication's interpretation of the evidence base.

¹⁷ ESPAD, Substance abuse amongst students in 36 European Countries, 2012

¹⁸ ESPAD, Substance abuse amongst students in 36 European Countries, 2009

¹⁹ Ogborne, A.C. & Smart, R.G. 1980. Will restrictions on alcohol advertising reduce alcohol consumption? *British Journal of Addiction*, 75, 293-296

²⁰ Makowsky, C.R. & Whitehead, P.C. 1991. Advertising and alcohol sales: a legal impact study. *Journal of Studies on Alcohol*, 52(6), 555-567

²¹ Alcohol consumption, liters per population aged 15+, OECD

²² *Law Commission Report: Alcohol in our Lives: Curbing the Harm*

In Lion's opinion, *Babor et al* is unduly critical of the econometric studies while promoting a range of flawed and limited experimental studies. Babor et al contains no original research. Rather, it is a review of existing research by a group of academics, many of whom are well known to favour a suite of extreme interventions.

The Forum has committed itself to making recommendations based on a thorough review of the evidence. Lion is confident that any dispassionate review of the evidence would demonstrate insufficient reliable evidence in support of further restrictions. We do not believe that the Forum should repeat the mistake of relying on Babor et al's commentary over a more independent review of the evidence. In reality, the quality of the available research on the impact of alcohol marketing, globally and particularly in New Zealand, is very poor.

While underplaying the deep-seated cultural drivers of drinking and attempting to make the case for very significant restrictions, the *Law Commission Report* seems to acknowledge the weaknesses in the evidence base:

"Links between alcohol advertising and alcohol consumption are not easy to draw in a conclusive manner. As discussed in other parts of this report, alcohol consumption is influenced by a myriad of individual and environmental factors, including alcohol's affordability and availability. However, drinking has been shown to be associated with exposure to advertising and other promotional activity".

Despite this, the report recommends a staged progression to an extremely restrictive regime closely modeled on the French 'Loi Evin'. This would be an extraordinary social experiment given the incredibly weak evidence base and the clear failure of the French model. New Zealand would be taking a high risk 'leap of faith' rather than a measured policy implementation based on evidence.

The strong New Zealand and international evidence demonstrating a lack of relationship between marketing investment, consumption and misuse appears to be viewed as an inconvenience by some health activists.

Even *Babor et al* concedes at regular intervals that the research base has significant limitations. Footnoting Babor et al, the *Law Commission Report* argues: *"Econometric studies have produced mixed results, largely due to methodological difficulties. Some studies found advertising had no impact, but others found small effects on total consumption and, commonly, positive effects in relation to specific beverages"*.

Few would disagree that targeted restrictions on a particular alcohol category would likely reduce consumption of that category. The purpose of marketing in a mature market is very specifically to influence category or brand choice. Consequently, the Forum should not be distracted by research that simply supports this phenomenon.²³

Babor et al also states: *"Although bans on some aspects of advertising are not uncommon, there is a limited amount of evaluation research on their effectiveness"* before going on to acknowledge that studies found the lifting of advertising bans in Manitoba and British Columbia had no negative effect.²⁴

In respect of the econometric studies we submit that the Forum should not be distracted by claims that *"The use of expenditure on alcohol advertising as a proxy for exposure has been critiqued on a number of grounds. Expenditure on the measured media (usually broadcast and*

²³ Footnote the research in NOC that talks to a reduction in spirits volume

²⁴ Babor et al; Alcohol: No Ordinary Commodity (2010, page 242)

print) is known to have been an underestimation of the marketing effort even prior to the development of the new marketing techniques".²⁵

National measured media statistics have historically very strongly correlated with overall marketing spend. Even now with the fragmentation of marketing platforms, measures of traditional media across the whole market would be a reliable proxy for trends in marketing spend as marketers generally run balanced marketing campaigns executed across multiple touchpoints contemporaneously.

The Forum will note that the New Zealand data set outlined on page 19 includes a wide variety of media spend, including new media and it clearly demonstrates this strong correlation.

Evidence proves claims of 'saturation' of alcohol marketing are totally false.

Lion is the largest single alcohol advertiser. Despite this, in 2012 we were the 52nd largest advertiser across all media in New Zealand. To place that in some perspective, Lion's advertising expenditure, as reported by Nielsen, was less than one-third of that of, for example, McDonald's or household products manufacturer Reckitt Benckiser.

Further, while there would be nothing wrong if alcohol marketers in New Zealand were successfully using the internet and social media to engage legitimate adults, if our aim were to 'saturate' the internet, we are obviously not doing a very good job.

In truth, online and social media remain just one small part of our overall approach. There are no alcohol brands in the top 20 New Zealand brands on Facebook and only one, at 25, has a site in the top 50.²⁶ Similarly in the case of Twitter, there is only alcohol brand in the top 100 brands, at 48.²⁷ And in the case of YouTube, one NZ alcohol brand, at 15, is the only alcohol brand in the top 100.²⁸

This would hardly seem to support the arguments we see from time to time that alcohol brands are somehow 'exploiting' the internet as a channel to avoid the regulations applied to conventional marketing.

²⁵ Babor et al; *Alcohol: No Ordinary Commodity (2010, page 233) referencing (Stewart and Rice, 1995)*

²⁶ <http://www.socialbakers.com/facebook-pages/brands/country/new-zealand/> (12 April 2014)

²⁷ <http://www.socialbakers.com/twitter/group/brands/country/new-zealand/> (12 April 2014)

²⁸ <http://www.socialbakers.com/youtube-statistics/country/new-zealand/> (12 April 2014)

7. Underage Drinking

There is no compelling scientific evidence that links alcohol advertising to uptake among young people aged below the legal drinking age.

Many recent studies appear to have deliberately set out to find a connection between advertising and adolescent uptake. Many of these studies are flawed in methodology and also conflate exposure to advertising with influence on behavior.²⁹

Young people are exposed from birth to a range of powerful immediate influences, most importantly their parent and family role modeling behaviours. They attend all aged social and community events. They are exposed to none-paid media and the arts. As they approach the legal drinking age, they are influenced by elder siblings, their siblings' peers and of course their own peers.

Intuitively, advertising could never play a particularly powerful role in the context of this powerful socio-cultural complex. Most studies on the influence of advertising on young people merely reveal an awareness of generic types of alcoholic beverages (part of popular culture like Champagne or white wine). In some instances there are also aware of brands or particular campaigns.

However, even where this is the case, it does not mean that the exposure to advertising has influenced them to make the decision to drink earlier than they otherwise would have. International research indicates that by far the major influences on underage drinking are deep-seated cultural factors, most notably, peer group norms, parental drinking behaviour and availability of alcohol. Advertising and taxation are not pre-dominant reasons.^{30 31}

Donovan's review of the risk factors for adolescent alcohol initiation concluded that *'the most consistent antecedent risk factors for starting to drink in adolescence were parental and peer approval and models for drinking.'*³²

Indeed, the ALAC Drinking Behaviours Report (2008) said "Young people are influenced most by the drinking behaviours they see around them." Further evidence of the important role of parents comes when we look at the statistics on where under 18s obtain their alcohol. 85% of alcohol supplied to minors is supplied by friends and family.³³

In respect of underage drinking, Lion is bemused that the *Law Commission Report* could arrive at the conclusion that the research base it canvassed *"clearly establishes that advertising leads to the early onset of drinking and heavier drinking by young people who already drink"*.³⁴

The Commission's report again suggests it relied significantly on: Babor et al's interpretation of

²⁹ Matthew Winter, Robert Donovan and Lynda Fielder "Exposure of Children and Adolescents to Alcohol Advertising on Television in Australia" (2008) *Journal of Studies on Alcohol and Drugs* 676 at 682; Tim McCreanor and others "Creating Intoxicogenic Environments: Marketing Alcohol to Young People in Aotearoa New Zealand" (2008) 67 *Social Science and Medicine* 938 at 940; Lynda Fielder, Robert Donovan and Robyn Ouschan "Exposure of Children and Adolescents to Alcohol Advertising on Australian Metropolitan Free to Air Television" (2009) 104 *Addiction* 1157 at 1163.

³⁰ Baer, J.S. Student Factors: Understanding Individual Variation in College Drinking, *Journal of Studies on Alcohol* (Suppl. 14):40-53, 2002.

³¹ Louise Hayes, Diana Smart, John W. Toumbourou and Ann Sanson, Parenting Influences on Adolescent Alcohol Use, Research Report no.10 2004, Australian Institute of Family Studies

³² Donovan, J.E. 2004. Adolescent alcohol initiation: a review of psychosocial risk factors. *Journal of Adolescent Health*, 35(6):529.e7-18.

³³ ALAC Drinking Behaviours Report (2008)

³⁴ Law Commission Report: Alcohol in our Lives: Curbing the harm, Page 26 [19.17]

the evidence to arrive at this point of view³⁵, despite conflicting commentary in that paper that:

“The extent to which effective restrictions would reduce consumption and related harm in younger age groups must remain somewhat of an open question. The most probable scenario, based on the theoretical and empirical evidence available, is that extensive restriction of marketing would have an impact.”³⁶

This clearly suggests that *Babor et al* would have governments act based not on firm evidence but on flimsy theories. In coming to the mistaken conclusion that some relationship exists between exposure and adolescent uptake, the *Law Commission* relied on systematic reviews of longitudinal studies summarised in *Babor et al*³⁷:

“The longitudinal studies have been subjected to systematic reviews. The strength of the association, the consistency of the findings, the temporal relationship, the dose-response relationship and the theoretical plausibility of the effect have led to the conclusion that alcohol advertising increases the likelihood that young people will start to use alcohol and will drink more if they are already using alcohol (Jernigan 2006³⁸; Smith and Foxcroft 2009³⁹; Anderson et al. 2009⁴⁰)”.

Anderson et al reviewed 13 studies and found that *“twelve of the thirteen studies concluded an impact of exposure on subsequent alcohol use, including initiation of drinking and heavier drinking amongst existing drinkers”.*

Smith and Foxcroft reviewed a quasi-similar body of literature and observed that *“the effect of alcohol portrayals and advertising on the drinking behaviour of young people is a matter of much debate”* and claimed to have found a modest relationship between exposure to marketing and drinking among young people with variation in effect between individual studies.

The authors highlight that all reviewed studies *“fall short of the current [methodological] recommendations as set out in the STROBE statement”*.⁴¹ The study concludes with the question: *“Does this systematic review provide evidence that limiting alcohol advertising will have an impact on alcohol consumption amongst young people? Not directly: (...) we cannot rule out that the effects demonstrated in these studies are due to residual confounding”.*

Most importantly, Nelson reviewed a body of literature almost identical to the one reviewed by *Anderson et al.* and *Smith & Foxcroft*. He concluded that a *‘brief review demonstrates that the evidence on alcohol advertising and youth is mixed, contradictory and inconclusive’*. Although *“studies present a conflicting set of results [...they] are cited in an uncritical manner”*.⁴²

In a 2010 comprehensive review of all the literature – not only the longitudinal studies – Nelson found evidence of a *“selection bias in the interpretation and use of results by researchers and health policy interest groups [...]”* A main conclusion of Nelson’s meta-analysis is that *‘the effect of alcohol marketing on adolescent drinking is modest, but the evidence indicates that it may not*

³⁵ Law Commission Report: Alcohol in our Lives: Curbing the harm, Page 26 [19.18]

³⁶ Babor et al; *Alcohol: No Ordinary Commodity* (2010, page 244)

³⁷ Babor et al; *Alcohol: No Ordinary Commodity* (2010, page 235)

³⁸ Jernigan D.H. The extent of global alcohol marketing and its impact on youth

³⁹ Smith L. A. and Foxcroft D. R. 2009. The effect of alcohol advertising, marketing and portrayal on drinking behaviour in young people: systematic review of prospective cohort studies. *BMC Public Health*.

⁴⁰ Anderson P., de Bruijn A., Angus K., Gordon R. and Hastings G. 2009. Impact of alcohol advertising and media exposure on adolescent alcohol use: a systematic review of longitudinal studies. *Alcohol and Alcoholism*

⁴¹ The STROBE statement is a standard of research aiming at strengthening the reporting of observational studies in epidemiology. It consists of a series of check-lists for each type of research. www.strobe-statement.org/

⁴² Nelson J. P. 2008. Reply to Siegel et al: alcohol advertising in magazines and disproportionate exposure. *Contemporary Economic Policy*, 26(3): 493-504.

*exist at all for mass media and other exposures’.*⁴³

Some studies have used self-report questionnaires and followed young people over a number of years in an attempt to determine the effect of advertising on subsequent misuse. These studies often claim to have attempted to strip out confounding factors but the fact remains, even if you accept the accuracy of their results, they are unable to adequately separate correlation and causation. Even the authors of this most recent such study confess that “causality cannot be verified.”⁴⁴

There is a wide range of studies seeking to do little more than prove adolescents are to some degree exposed to alcohol marketing. The Forum should not mistake these for evidence of potential harm. It is undoubtedly the case that, despite the industry’s focus on targeting communications to legitimate customers, adolescents are to some small extent exposed to marketing for a range of adult products such as alcohol, cars and tampons. However, they are also exposed to a wide range of much more powerful environmental influences from parental role modelling, family and community social occasions to popular culture.

Any belief we can cosset our young people from the real world is at best heroic and more likely counterproductive. Parents need to be trusted to parent and help young people interpret the various cultural signals. As well, parents need to be encouraged to role model and therefore normalise moderate and responsible consumption with their children.

⁴³ Nelson, J.P. 2010. Alcohol Marketing, Adolescent Drinking and Publication Bias in Longitudinal Studies: A Critical Survey using Meta-Analysis. *Journal of Economic Surveys*, published online on 23 August 2010.

⁴⁴ Grenard, J. L., Dent, C. W., & Stacy, A. W. (2013). Exposure to alcohol advertisements and teenage alcohol-related problems. *Pediatrics*, 131(2), e369-e379

8. Sponsorship

The Forum needs to be clear what it is talking about when it comes to sponsorship.

There is a major difference between Lion's relationship with major sporting and cultural organisations where it pays a sponsorship fee to be associated with or support an event, and commercial supply arrangements with sports clubs across the nation.

About 13% of all liquor licenses are held by sports clubs and the funds generated by the club bar are often crucial for a club's viability, with around a third of clubs' income being derived from them.⁴⁵

Lion's commercial supply arrangements with sports clubs are no different to our relationships with any other licensed premises. Lion does not provide collateral or equipment to these clubs beyond the standard point of sale materials it provides to all licensed premises. There is zero brand sponsorship consideration in these arrangements.

In fact, well-managed bars add to the sociability of a sports club and should be seen as positive. Indeed, given the motivation of many members – particularly in the older demographic - is both exercise and sociability, there's a risk in restricting the sports club bar we discourage exercise among some people who would in any case still go to the pub elsewhere.

While the *Law Commission Report* relies upon O'Brien and Kypri (2008)⁴⁶ to suggest *"links between alcohol-industry sponsorship of sportspeople, in particular, the provision of free or discounted alcoholic beverages, and hazardous drinking,"* it should be very careful not to confuse the actions of the local pub in partnering with a local team with sports sponsorships by manufacturers.

Licensed sports teams are subject to the same licensing controls as other kinds of liquor outlets and the new offences in the Sale and Supply of Alcohol Act 2012 (SSAA) would seem more than adequate in addressing any provision of free or heavily discounted drinking and indeed any other behaviour on the part of sports clubs or local pubs which might encourage irresponsible drinking.

However, most local sports clubs and licensed venues set out to run responsible operations as reflected in another recent review which suggests that *"Research does not provide evidence that sports have more of a problem with misuse of alcohol than New Zealand Society in general ... Based on the actions that responsible clubs and sports organisations are taking, it is evident that sports and sports clubs are already part of the solution to managing harmful alcohol related behaviours in New Zealand, and there is potential to strengthen this role in future."*⁴⁷

Lion places great emphasis on good sporting cultures within its major sports organisation partnerships and uses its influence to require appropriate team codes and training. Indeed, this is a key term in our contracts.

⁴⁵ Alcohol & Sport, a scoping report prepared for Sport NZ (formerly SPARC) in August 2010.

⁴⁶ Kerry S O'Brien and Kypros Kypri "Alcohol Industry Sponsorship and Hazardous Drinking among Sportspeople" (2008) 103 *Addiction* 1961.

⁴⁷ SPARC August 2010 – 'Alcohol and Sport – What is the nature of the relationship and what is the problem?'

There is no evidence to support further constraints on sponsorship and the regulatory regime is already very restrictive.

There is no evidence that brand sponsorship encourages the misuse of alcohol. Car advertisers are also major sponsors of sport, however there is no suggestion that this is what is causing a minority of people to drive recklessly.

The *Law Commission Report* acknowledges the limited evidence base in respect of sponsorship of sport and the arts. In reality, in New Zealand there are already very significant restrictions on how sports sponsorships can be leveraged and this has already significantly compromised its commercial value.

Sponsors are already unable to create brand advertising associating their products with sport. Any such commercials must be primarily about the sponsorship itself and allow logo use only, sub-ordinate to the main message. All sponsorship marketing is subject to the 'heroes of the young' provisions in the Advertising Code, which in practice mean we do not feature individual sports stars in any of our broader sponsorship leverage. Those featured in groups must all be aged 25 or over.

Indeed, the target market for sponsorship is very clearly adult drinkers.

Despite claims to the contrary, the overwhelming majority of people watching or attending major sporting events are adult. Despite claims to the contrary, the overwhelming majority of people watching or attending major sporting events are adult. For example, for live All Black test matches broadcast on Sky Sports/Prime Television in 2013, 5 – 17 year olds only made up 12% of the audience, and for all Super Rugby games on Sky Sports/Prime Television this year, 5 – 17 year olds make up 6.4% of the average audience. 5 – 17 year olds make up 19.2% of the total NZ population.⁴⁸

Given this low level of viewership, and the fact the content of alcohol advertising is strictly regulated on the issue of underage appeal, the impact of this exposure is unlikely to be of concern. Of much more influence is the behaviour of their parents and other role models.

Brand sponsorship is an important revenue stream for sports and cultural events.

Based on Lion's annual investment in sponsorship into New Zealand sports and cultural events, we estimate total alcohol industry sponsorship to be around \$10 – 12m a year.

At Lion, we fund rugby, including the All Blacks and major Super Rugby franchises, Rugby League, the Coast to Coast, various racing clubs and music events like the Laneway Festival and the NZ Music Awards.

The vast majority of this funding goes directly into the recurrent budgets of the sporting and event management organisations. We also pay to exclusively pour our beverage brands at certain events. The aim of such arrangements is to encourage trial of our products and to encourage purchase of our brand over that of our competitors from that point on.

In some instances, for instance Lion Red's sponsorship of the New Zealand Warriors, we know that the Lion Red drinking fans expect us to support the team and we reward their brand loyalty by ensuring Lion Red is available for them at the ground as opposed to a competitor brand.

⁴⁸ Source: Nielsen TAM, 2014

Alcohol sponsorship is a significant component of sports club revenues. According to a report prepared for Sport NZ (formerly SPARC) in August 2010, 9% of sports club revenues are derived from alcohol industry sponsorship.

The idea that this revenue can easily be replaced in a small sponsorship market like New Zealand is a fallacy. Further, the Forum will note that the same activists that promote restrictions to alcohol sponsorship also promote significant restrictions to other categories such as food. If the precedent of further restrictions on alcohol sponsorship were extended to these sport funders, we can expect New Zealand sport to be in some difficulty.

There are significant limits to New Zealand's ability to regulate sports sponsorship even if it was motivated to do so.

Much marketing, including that based on sponsorship, crosses national boundaries. Much of the sport seen in New Zealand involves competition with teams from overseas and overseas sporting competitions are regularly shown on New Zealand television. These competitions are very often associated with global brands available in New Zealand. The effect of local restrictions may simply be to disadvantage local brands with a negative effect on the local economy.

9. Internet and social media

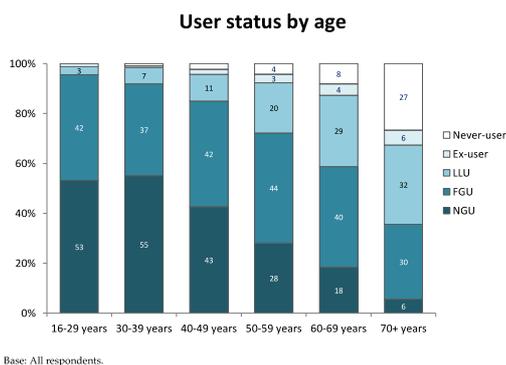
There appears to be an irrational fear of internet and social media among some in the health lobby.

The Law Commission goes as far as to quote a paper, which describes them as among “*newer and more insidious forms of marketing that have not yet been properly assessed ...*”⁴⁹

It suits the ends of those who would like to see further restrictions on alcohol marketing to present on-line and social media channels as unregulated and targeted only at the young. The idea that alcohol advertisers use social media to target consumers that are underage is completely false, and demonstrates a lack of knowledge about the social media user environment.

The facts are that the internet and social media are now ubiquitous and alcohol marketers are right to view them as a logical and legitimate channel to engage New Zealand adults.

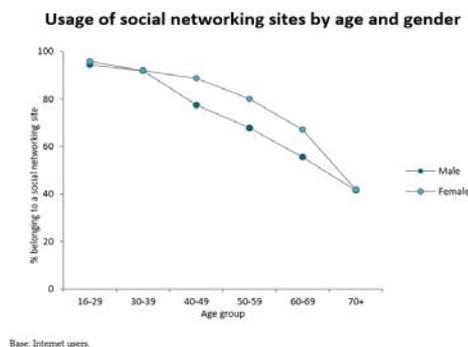
Statistics demonstrate that the vast majority of New Zealanders are regular users of the internet in all age groups except 70+ and the vast majority of internet users are aged over 18.⁵⁰ The same survey segments the type of user by age between the following categories:



- Never-user; Ex-user; Low-level user; First-generation user; Next-generation user

Both ‘First-generation’ and ‘Next-generation’ users are regular users of the internet with the distinction between the two based on the type and range of devices they employ. This study clearly illustrates the presence of regular and sophisticated internet users right across the age spectrum.

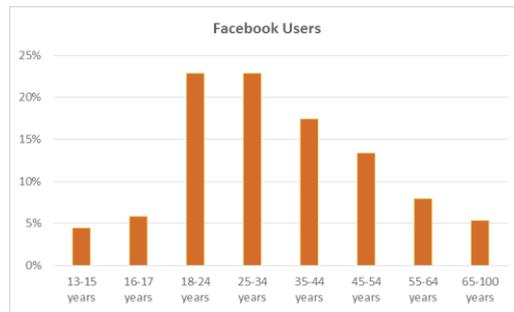
Further, the same study illustrates the near universal appeal of social media and that the vast majority of New Zealand social media users are over 18 years of age.



⁴⁹ Ian Gilmore “Alcohol and Social Marketing” (2009) 339 BMJ 585 at 585

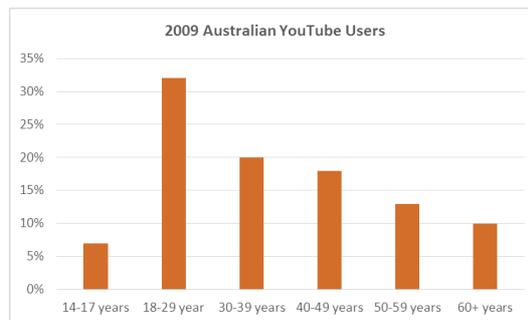
⁵⁰ Gibson, A., Miller, M., Smith, P., Bell, A., Crothers, C. (2013). The Internet in New Zealand 2013. Auckland, New Zealand: Institute of Culture, Discourse & Communication, AUT University.

We see the same picture when we drill down to New Zealand’s most popular social media channels. Statistics for Facebook usage in New Zealand suggest that approximately 90% of users are aged 18 and over. Indeed Facebook is most popular among users between 18 and 44 years of age.⁵¹

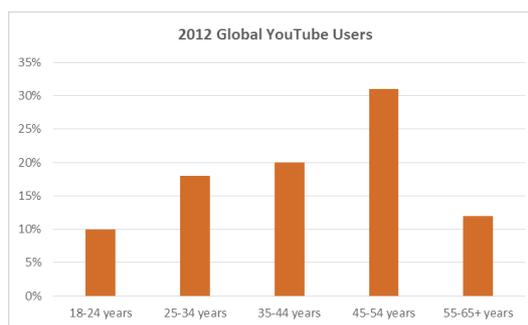


Similarly, studies of Australian and Global YouTube users have found widespread usage across the age spectrum.^{52,53}

The 2009 Australian study found that 14-17 year olds only make up 7% of Australian YouTube users:



While the 2012 Global Study found that 0-17 year olds make up approx. 9% of global YouTube users:

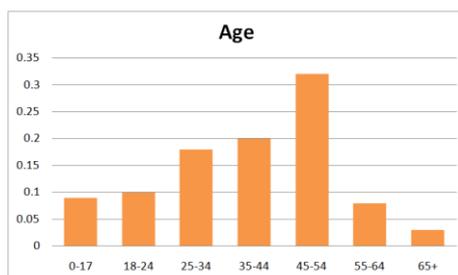


Statistics from the same survey for Twitter in 2012 suggests it attracts around 7% of under 18 users and is most popular among 25-34 year olds.

⁵¹ <http://www.socialbakers.com/facebook-statistics/new-zealand> (12 April 2014)

⁵² <http://anthillonline.com/research-teens-geeks-dont-dominate-aussie-youtube-usage/>

⁵³ <http://www.ignitesocialmedia.com/social-media-stats/2012-social-network-analysis-report>



So, it is simply misleading to position the internet or social media as a young person’s domain. It seems ironic that those who express concern about young people’s exposure to alcohol marketing also express the most concern about the most targeted media available to alcohol marketers. In reality, the internet offers alcohol marketers a highly targeted and in many cases measurable opportunity to market to legitimate adult drinkers.

Furthermore, there are other myths in respect of on-line and social media that the Ministerial Forum should be alive to:

Myth	Facts
<i>Alcohol marketers use the internet to circumnavigate the co-regulatory standards applied to conventional marketing</i>	<p>The accusation that the current system does not apply or is ineffective in the online space is simply not true. All major alcohol advertisers, including Lion, are bound to apply the Advertising Code to on-line and social media channels.</p> <p>The vast majority of alcohol marketing campaigns involve a single idea executed across a range of ‘touchpoints’ including conventional and internet and social media. This means most campaigns executed on social media would also be subject to LAPS pre-vetting.</p> <p>Companies like Lion are committed to applying the spirit and intent of the Advertising Code to internet and social media and apply significant internal approval processes in addition to the formal co-regulatory process.</p>
<i>User generated content is unregulated</i>	<p>User-generated content is regulated under the Advertising Code and the ASA has issued a guidance note on social media, which included specific guidance to alcohol marketers on appropriate behavior.</p> <p>Companies like Lion employ clear procedures for the continual vetting of user-generated content on sites over which we moderate or exercise a reasonable degree of control. Consequently any inappropriate commentary from users which may contravene the Advertising Code is quickly removed.</p> <p>Alcohol is a social product and we note that ‘fan’ pages with no affiliation whatsoever to alcohol companies are regularly established with no moderation or content management. These would exist regardless of any further controls placed on alcohol manufacturers. In reality, the presence of well-moderated official sites offer a more responsible environment for product enthusiasts to enjoy.</p>
<i>There are no age restrictions on-line</i>	<p>An increasing number of digital media platforms, such as Facebook, have advanced age restriction technology available. By way of example, a registered under-18 user of Facebook:</p> <ul style="list-style-type: none"> o Cannot access an alcohol brand’s page contents via the search function; o Cannot access content on an alcohol brand’s Facebook page from within

	<p>Facebook or via an external site and cannot opt to 'like' the content;</p> <p>o Cannot see any interaction with the alcohol brand via their 18+ Facebook connections friends' activities or newsfeeds.</p> <p>While age protection mechanisms may be subverted by a determined user, the adoption of these age restricting technologies ensures companies are taking reasonable measures to minimise this risk and are effective when combined with parental supervision and the use of 'nanny tags'. Also, there is no evidence to suggest that such behaviour by minors is prevalent.</p> <p>Lion adds age-gates to all of the sites it directly manages where this function is available.</p>
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Parental responsibility needs to be encouraged in respect of the internet.

Quite aside from the issue of alcohol marketing, there is a wide range of adult content that young people could access on line that would be of significant concern should children and adolescents access it.

Parents should always exercise vigilance in monitoring and supporting their children's on-line behaviour and need to be encouraged to do so. Content filters are available to improve security on the home computer and Lion is happy to work with software providers and provide a list of search terms to help maintain software for those parents who wish to add screening of alcohol marketing.

Lion believes that an objective review will demonstrate that the current system of regulating alcohol advertising administered by the Advertising Standards Authority is world-class and meets community expectations.

10. New Zealand is already a global leader in self-regulation

It extends to all types of marketing activity, is media neutral – accepting complaints in any media - and strikes the right balance between ensuring all alcohol marketing in New Zealand is responsible, preserving reasonable commercial communications and the benefits available to the sporting and creative industries.

The prominent involvement of industry creates a system with the agility to evolve as marketing changes. Marketers are best placed to understand emerging trends and adapt the system to meet them. As an active player and shaper of the system, industry is fully supportive and applies its spirit and intent.

Indeed, the *Law Commission Review*, despite its many misinterpretations, acknowledged the benefits of self-regulation when compared with full government regulation.

“We have considered and rejected the idea of replacing the current self-regulatory body with a government regulator. Although government regulation would have advantages in terms of independence and democratic accountability, it would be expensive to establish and maintain, may lack flexibility and take longer to resolve complaints, and would not encourage industry cooperation.”⁵⁴

The *Law Commission Report* also highlights another previous government report, which came to similar conclusions.⁵⁵ We also note the New Zealand Government’s response to the Report of the Health Committee “Inquiry into improving child health outcomes and preventing child abuse”.

We note that the Government rejected the report’s recommendation to develop a legislative framework to restrict marketing of ‘unhealthy’ foods and beverages to children. The Government noted current broadcasting restrictions around children’s programmes and food advertising targeted at children. Importantly the Government considered that non-legislative measures and an educative approach are likely to be more effective.

The standards outlined in the Advertising Code are world-class, comprehensive. Marketers must apply both the spirit and intent of the Code.

We note that the *Law Commission Report* commented on Principle 2 of the Code for Advertising Liquor, which requires: “Liquor advertisements shall observe a high standard of social responsibility,” calling it “broad” and questioning its “usefulness” and made a general comment on the “elasticity of the standards” in the Advertising Code.⁵⁶

The Forum should be aware that Principle 2 is deliberately drafted broadly as a catch all for the very reason that it provides the complaints panel with the flexibility to rule against an advertisement which might on a technicality not breach the system. Indeed the idea promoted by some activists that innuendo, humour or modern creative tactics can be used to circumvent the Advertising Codes is a total misnomer.

The Advertising Code strikes the balance required in any regulatory document. A code, like any legal document, is just as likely to be circumnavigated if drawn too narrowly as too broadly. The

⁵⁴ Reference page in Law Commission Report

⁵⁵ Ministry of Consumer Affairs *Market Self-Regulation and Codes of Practice* (Wellington, 1997) at 7;

⁵⁶ Law Commission Report, paragraph 944

important thing is to strike the right balance and give the complaints panel the flexibility to interpret both the spirit and intent of the Code.

We also note that activists have been keen to highlight recent Woodstock marketing as an example of failure in the system. While Lion does not propose to run commentary on the marketing of a competitor or indeed defend it, we are somewhat bemused as to why an issue of sexism which is reviewable under the Code of Ethics standards applied to all advertising is used as an example of the failure of the Code for Advertising and Promotion of Alcohol. While this marketing may be viewed by some to be sexist and insensitive and in breach of the Code of Ethics, it is surely outside the scope of the Code for Alcohol Advertising (designed to ensure alcohol marketing does not contribute to misuse).

The Self-regulatory Regime has only recently been reviewed and improved and the new advertising restrictions in the Sale & Supply of Alcohol Act (2012) recently introduced. These changes should be bedded in and assessed before we rush to further change.

The voluntary system of alcohol advertising self-regulation is subject to regular internal review, including a 2013 revision, and has seen many reviews over recent years by various government sponsored processes prior to the recent *Law Commission Review*. The system has consistently been assessed as being robust and effective.

The new advertising offences in the Sale and Supply of Alcohol Act 2012 (SSAA) have only recently (December 2013) come into effect and it is clearly too early to evaluate their effectiveness. The SSAA introduces very significant legally enforceable checks and balances resulting in heavy fines or loss of license for general offences, including:

- “doing anything that encourages people, or is likely to encourage people, to consume alcohol to an excessive extent”
- “promoting or advertising alcohol in a manner aimed at, or that has, or is likely to have, special appeal to, minors”
- new offences prohibiting advertising heavy price discounts, promoting free alcohol or promotions where purchase is required to be eligible to win prizes.

While these offences are primarily intended to affect license holders, in reality alcohol manufacturers create multi-touchpoint campaigns that include on-premise promotions and point of sale marketing materials. Given the significant potential penalties, liquor outlets are now taking great care in selecting the marketing they use on-premise or in store and this has the effect of regulating campaigns created by manufacturers and distributors.

The Advertising Code is supplemented by a range of other important measures.

- The LAPS pre-vetting process whereby alcohol marketing is independently assessed and approved prior to going to market
- The ASA’s Code of Ethics and other codes (such as the Code for Comparative Advertising)
- The Broadcasting Standards Authority’s Codes and Commercial Approvals Bureau process without which an advertisement cannot be broadcast and which also affects placement
- Placement, including in respect of outdoor advertising and cinemas is adequately addressed in the ASA Codes
- The ASA’s guidelines on social media, designed to help advertisers comply with Codes. Additional guidelines were also developed specifically for alcohol advertisers to

help them understand the ASA's expectations around age-gating and moderation of user-generated content

- NZ was one of the first countries internationally to extend the Advertising Code to packaging, naming, labelling & promotions (at the request of industry)

Lion also manages its own bespoke Code for Responsible Marketplace Activity (Lion's Code) which applies the Advertising Code to Lion's business environment and also goes further in tailoring additional self-regulations to the way Lion does business.

For instance, Lion has voluntarily committed not to create single serve beverages containing more than two standard drinks and does not produce alcohol products with enhanced energy mixers. We are also committed to health information labelling and a range of practical standards around marketing, packaging, point of sale, sponsorship and the vetting of social and on-line content.

Indeed each and every marketing campaign must travel through numerous checks and balances before it goes to market.

This is a summary of the typical journey to market of a liquor marketing campaign in New Zealand:

1. Concept creation - Marketing concepts are developed by either our external agencies or internal marketing team – all of whom are required to be regularly trained on the Marketing Code, Lion's Code and other associated legal and self-regulatory standards
2. Internal approval - Materials are submitted at concept stage to our Legal Counsel, to assess against all relevant laws (including liquor licensing laws) and our External Relations Manager, to assess against all relevant Codes. At this stage concepts and placement will be approved, modified or rejected.
3. Further internal reviews as concepts develop -Materials continue to be submitted as per the above process at regular intervals during development.
4. Once Lion approval has been granted (and only if), all major creative touchpoints must gain approval from an independent LAPS pre-vetter, who ensures compliance with the Advertising Code, before it enters the market. If LAPS approval is not granted the concept does not move forward.

The ASA system boasts an excellent compliance record.

The ASA system and alcohol marketing in general boasts an excellent compliance record. For consumers who do feel cause to complain, the ASA acts as a 'one stop shop' for all complaints, including alcohol. The ASA has recently taken steps to ensure that the Complaints Board adjudicates on complaints within two weeks of receipt.

Disappointed that the public does not share their concern about alcohol marketing, some activists, including Caswell and Maxwell (2005), have claimed the reason for the relatively low number of complaints about alcohol marketing is because people either do not know how to complain or do not have confidence in the system.⁵⁷

⁵⁷ Sally Casswell and Anna Maxwell "Regulation of Alcohol Marketing: A Global View" (2005) 26 Journal of Public Health Policy 343 at 353.

Both of these arguments are distractions. Making a complaint is as simple as making a call or sending an email, and the ASA is easy to find via search engines by typing in 'advertising complaint'.

According to its 2012 annual report (the most recent available), the ASA received 35 complaints about alcohol advertisements in 2012, just under half the number of complaints received the year before, and only 3% of the total number of advertising complaints received. The Board accepted 20 for consideration and of those, 10 were upheld or settle, 9 not upheld, and 1 not considered within jurisdiction.

Suggestions by those who wish to end the self-regulatory system that the current adjudication system is either not independent of industry or reflective of community expectations and standards are simply untrue. The ASA Panel enjoys strong community and public health representation.

It is also worth acknowledging there is a significant commercial incentive for marketers to be conservative in their interpretation of the Advertising Code. There is a huge potential cost to losing a marketing campaign to an upheld complaint during key selling periods and before the end of its intended run.

The quality of the independent ASA complaints panel beyond reproach.

Contrary to the claims of some industry critics, and again Casswell and Maxwell feature here, the ASA complaints process is very quick and effective with an average timeline of just 18 days from the receipt of a complaint to the publishing of the determination. The average length of a marketing campaign is between six months and a year, with successful campaigns being employed for two years or longer. In a strange line of argument which had an 'it's not broken but we want to fix it' ring to it, the *Law Commission Report* said:

"We note, however, that, although public health and community policy interests are currently well represented on the Complaints Board, there is no requirement for such interests to be represented"

Clearly, the ASA is motivated to run an excellent system without the need for any such requirement.

11. Benefits of brand, advertising and sponsorship

Advertising has three macro benefits – firstly, it increases consumer choice, secondly, it stimulates economic growth and thirdly it is a critical characteristic of an open and democratic society.

Competition and choice – marketing is a major factor in a competitive but high value alcohol market.

Lion wants a high value, competitive and profitable alcohol market – marketing plays a key role in achieving this – without it, competition will be on price alone via deep cut discounting.

While price is not a key driver of misuse, it seems strange that the very same campaigners who are arguing for increased taxes are at the same time making a case for advertising restrictions that will effectively reduce prices. With further significant marketing constraints it would become increasingly hard to innovate new products, including lower alcohol options. Innovation is key to maintaining value in the marketplace.

Further, new market entrants will find it much more difficult to establish a presence if advertising is further restricted, creating significant competition implications.

Consumers enjoy brands. They also rely on them as a sign of quality. In other parts of the world where brands are not as prominent, counterfeiting and dangerous home distilling are common. The ability to associate brands with occasions and lifestyles helps consumers select products that are right for them, their budget and the occasion on which they intend to enjoy them. Brands encourage drinkers to drink for flavour, not effect.

The recommendations contained within the Law Commission report imagine a scenario where New Zealand would progressively move toward ‘informative’ advertising only. The Forum should not be confused into believing this to be a modest ‘half-step’. It has the potential to devalue the market over time in a similar way to a full ban.

Economic impact

Lion’s business alone generates a total of \$818 million of economic value to the New Zealand economy each year with \$442 million in direct economic impact and a further \$377 million of indirect contribution.⁵⁸

Lion employs 1165 New Zealanders directly and the additional upstream and downstream employment generated by Lion’s business is 3494 full time equivalent New Zealand employees. As stated above, we are one of New Zealand’s largest purchasers of agricultural products buying approximately \$96m worth of inputs from New Zealand farmers each year.

We discuss the alcohol industry’s \$10 - \$12m per annum of sponsorship of sports and the arts in the sponsorship commentary above. This would not be easily replaced in a small sponsorship market like New Zealand, particularly if the principle of further restrictions on alcohol marketing were extended to other categories which attract similar campaigns from the health lobby.

While Lion’s broader marketing budget is commercial in confidence, we can share that it is a multi-million dollar investment in the New Zealand creative industries. Marketing, commercial TV and print and on-line production are crucial in keeping a critical mass of creative people in New Zealand and therefore a vibrant creative community.

⁵⁸ Deloitte Access Economics, Lion Economic Contribution FY2013, March 2014 (Direct and Indirect Contribution)

Lion New Zealand is part of the Australasian Lion group and ultimately owned by the Kirin Group. Lion New Zealand is responsible for Lion's international export business, a reflection of the success brands like Wither Hills and Steinlager have enjoyed in global markets. In order to attract investment to New Zealand and in doing so create local jobs, our management must compete for funds against a range of nations across the group.

Inevitably, decisions come down to the competitiveness of New Zealand and the 'risk' attached to the future value pool. While additional restrictions on marketing would not impact market volumes, they would impact the value pool due to discounting and would disproportionately impact companies like Lion who focus on premium brands. We could expect a shift in volume to competitors who spend little on marketing and international brands whose marketing remains accessible in New Zealand via the internet and international sports transmissions. In this way, unnecessary 'red-tape' ultimately undermines New Zealand's competitiveness.

12. What should be done to reduce underage and excessive drinking?

Alcohol policy should be realistic and pragmatic.

Some researchers, clearly frustrated they have failed to successfully make a case for draconian “command and control” interventions to the community, have argued advertising has a normalising effect on alcohol in society – that it underpins social acceptance.⁵⁹ This is surely naïve and a significant over-estimation of the role and powers of advertising in this case.

In failing to understand or value the many positives for most responsible drinkers – the enjoyment of flavor and sociability along with relaxation and potential health benefits – they ignore that most New Zealanders regard drinking as a normal and enjoyable part of life. This is in no way inconsistent with efforts to maintain a responsible drinking culture.

Indeed, while the personal experiences of the vast majority of drinkers in New Zealand remain positive, no amount of marketing regulation is ever likely to change that.

Alcohol misuse is underpinned by a range of complex socio-cultural influences, primarily parental role modelling and peer norms. Culture is like a balloon. Unless you tackle the substance of the issue, you will simply displace it. Demand for alcohol among misusers is price and marketing inelastic. If we are serious about achieving a real, sustainable change in the drinking culture among those who misuse, we need a genuine commitment to tackling the real underlying socio-cultural drivers, rather than playing at the edges with price and additional marketing restrictions.

The real prize in tackling misuse is a whole-of-community effort to champion pro-social behaviour and responsible drinking along with taking a long hard look at how we transition our young people into adulthood and prepare them to navigate the drinking culture. Starving them of information about drinking may merely add to the ‘forbidden fruit’ effect, remove positive parenting and role modelling and reinforce a culture of excess.

Rather than ‘shock and awe’ campaigns which don’t connect with drinkers sense of the likely consequences for them, we must present them with believable social and personal consequences. We must make a sustained effort to make it socially unacceptable to drink to the point of drunkenness and to behave in an anti-social manner.

While clearly we need to support those who have developed real problems with interventions and services, we need to assume the vast majority of New Zealanders have the capacity to exercise a reasonable degree of personal and parental responsibility and provide them with the skills and knowledge they need to do so.

Research has shown that the cultures which are most successful in preventing alcohol misuse and associated harms are those which:

- Tend to view alcohol as a natural, normal part of life about which they have no ambivalence
- Teach their young by example to drink in moderation
- Encourage drinking among family and friends rather than in same gender settings
- Discourage heavy, episodic drinking
- Sanction negatively and promptly any unacceptable drinking behaviours
- Respect the decision of those who choose not to drink and do not pressure them to

⁵⁹ Law Commission Report – Alcohol in our lives, page 323; Babor et al, Alcohol: no ordinary commodity (2010), page 232 referring to Casswell 1997

- drink
- Are free of the belief that alcohol can solve problems, signify adulthood, grant power or confirm 'manhood'⁶⁰

Indeed, by apportioning power to alcohol that it does not have – for instance as the sole cause of anti-social behaviour - and implicitly sanctioning the use of intoxication as an excuse for poor behaviour, we essentially reinforce a 'license to transgress'. Prominent substance abuse anthropologist Anne Fox believes that only when we remove this license to transgress and focus the responsibility back on the individual will we genuinely begin to deal with the real causes of anti-social behaviour.

Lion and its industry partners have launched a range of evidence-based initiatives.

In late November 2012 the three associations representing New Zealand's beer, wine and spirits makers launched *'The Tomorrow Project'* and its consumer-facing brand *'Cheers!'*, an ambitious programme to promote responsible drinking.

The program aims to help New Zealanders understand the drivers and effects of their drinking behavior and to make smarter choices. Lion and other manufacturers have used their brands to bring the program to life. Initiatives range from consumer health messages on our packaging (including pregnancy advice) and a variety of other initiatives including those outlined above.

This program aims to champion pro-social behavior and communicate a believable picture of the consequences to discourage misuse.

Lion has also recently agreed new partnership with the Foundation for Youth Development, which will equip young people with the social skills and personal confidence to successfully navigate the, often difficult, transition from childhood to adulthood.

⁶⁰ Research New Zealand Report for ALAC: A healthy drinking culture: A search and review of international and New Zealand literature, 2006; Dr Anne Fox, Sociocultural Factors that Foster or Inhibit Alcohol-related Violence, International Center for Alcohol Policies, 2008

13. Implications of the New Zealand Bill of Rights & International Law

Unlike formal regulation, the current self-regulatory system is flexible and capable of adapting quickly to changes in marketing techniques and technology.

Consequently, the New Zealand system has consistently been at the cutting edge and the first to adopt a range of new measures over the years, including our world-first Code for the Naming, Labelling, Packaging and Promotion of Alcohol.

Various local and international legal and regulatory frameworks have the potential to either frustrate or significantly delay any future decision to regulate.

There are significant questions as to the extent to which further legislated restrictions on alcohol advertising and sponsorship would be consistent with the New Zealand Bill of Rights Act 1990.

We have considered the possibility that any further restrictions on advertising or sponsorship alcohol products could infringe rights guaranteed under the New Zealand Bill of Rights Act 1990 ("NZBORA"), specifically the right in section 14 of that Act to freedom of expression.

We have sought legal opinion on this important issue and, in summary, it appears that restrictions on alcohol advertising and sponsorship would interfere with the freedom of expression protected by section 14, which provides:

14 Freedom of expression

Everyone has the right to freedom of expression, including the freedom to seek, receive, and impart information and opinions of any kind in any form.

The key issue will be whether any particular restriction is a justified limit on that right under section 5 of NZBORA:

5 Justified limitations

Subject to section 4 of this Bill of Rights, the rights and freedoms contained in this Bill of Rights may be subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society.

The key question is therefore, whether any further limitations on the rights of alcohol retailers and other industry participants to advertise alcohol products, or engage in sponsorship activities, would be reasonable in that they can be demonstrably justified?

In order to be considered justified, a limit must have an important and significant objective, and there must be a rational and proportionate connection between that objective and the proposed limit. Of these factors, the most difficult for any proposed restrictions on alcohol advertising to satisfy will be that there is a proportionate connection with the objective of reducing alcohol-related harm. The answer to that will turn on a number of factors including:

- The breadth of any proposed measures;
- The extent of any proposed measures;
- Any evidence that supports the measures; and
- The group(s) that the proposed measures are designed to protect.

While these issues have not been litigated in New Zealand, there is assistance to be had from:

- overseas case law; and

- opinions prepared by, and for, the New Zealand Attorney-General under section 7 of NZBORA.

Analysis of the Attorney-General's material, in particular, suggests that there will be real difficulty in adopting restrictions of a nature similar to those proposed by the Law Commission, while satisfying the Attorney-General that there is a proportionate connection between such restrictions and the social harm brought about by the misuse of alcohol. A previous attempt to introduce a ban on television and radio advertising, for example, failed to establish this connection and was therefore reported by the Attorney-General as being inconsistent with NZBORA.

As is made clear elsewhere in this submission, there is no compelling evidence of a proportionate connection between this objective and any provision to ban some or all advertising.

There is no compelling evidential basis that a ban or significant additional restrictions will bring about a reduction in harm. Further, given the many economic and societal benefits our marketing delivers along with the benefits of the very comprehensive existing self-regulatory regime and the pro-social responsibility cues in the vast majority of current alcohol marketing, proportionality would be very hard to prove.

A finding of inconsistency by the Attorney-General would provide a strong reason for the Government not to pursue such restrictions. Not only is it a bad look to enact rights-infringing laws, but it would also represent a departure from the standard the Government has previously held itself to when deciding not to support similar proposals.

International trade obligations pose further challenges.

There is significant potential for further restrictions on alcohol labelling, advertising and/or sponsorship to contravene New Zealand's international obligations, and most notably its commitments under:

- Articles 2.1 and 2.2 of the World Trade Organisation ("**WTO**") Technical Barriers to Trade Agreement;
- Article III.4 of the WTO General Agreement on Tariffs and Trade;
- Articles 2.1, 3.1, 8.1, 14.2, 14.3, 14.6, 16.1, 17 and 20 of the WTO Trade-Related aspects of Intellectual Property Rights Agreement; and
- the investment protections provided in certain Free Trade Agreements and Bilateral Investment Treaties to which New Zealand is a Party.

Further restrictions are more likely to breach New Zealand's international obligations if they are:

- Discriminatory, ie. they discriminate between imports and domestic production of 'like products', either by design or by effect;
- Unnecessary or unduly trade restrictive, ie. they are more trade restrictive than necessary to reduce the harm caused by excessive alcohol consumption;
- Disproportionate or arbitrary, i.e. they are not scientifically justifiable or the result of a robust policy-making process; or
- Effectively prohibiting or unjustifiably restricting the use of alcohol companies' trademarks.

Restrictions that cannot be justified in accordance with the New Zealand Bill of Rights Act 1990 - ie. because they fail one or more of the 'rational connection', 'minimal impairment' or 'proportionality' tests - are likely to breach New Zealand's international obligations for similar reasons.

Recent WTO Committee discussions suggest that further New Zealand restrictions aimed at reducing alcohol-related harm would almost certainly come under attack if a discriminatory, unduly trade restrictive or scientifically questionable aspect of the measure's design or effect could be identified.

We understand that the New Zealand Government is generally reluctant to introduce restrictions that are likely to breach the country's international obligations. As such, we consider it important that officials fully research and understand the constraints that New Zealand's international obligations place on the Government's ability to regulate in the alcohol space, before they advocate any further restrictions.

Implications of hitting local brands disproportionately

Media is increasingly global and therefore increasingly hard to regulate. This applies to conventional and social media.

Realistically, there are significant limits on the ability of the New Zealand Government in regulating exposure, should it be so motivated, to all manner of advertising, marketing and media content featuring products and brands.

Many of the brands available in New Zealand are global brands. These brands manage global websites and social media platforms easily accessible to New Zealand consumers.

New Zealand media consumption is increasingly globalized and fragmented and will become more so. Foreign publications and websites are widely available in New Zealand. Foreign media content featuring free and bought embedded branded content is regularly featured on New Zealand media platforms. With the advent of streaming, New Zealand media consumers will increasingly stream direct from global websites.

Most commentators believe we are at the cusp of a further explosion in these trends. They raise a number of challenges in considering local safeguards. In reality, any attempt to regulate on-line and social marketing will suffer major loopholes and will disproportionately impact brands available primarily or exclusively in New Zealand. These brands are manufactured in NZ and originate their own NZ-specific marketing. They invest in local sports and the creative industries. In short, these brands create the most economic and social value for NZ.

These issues raise a number of considerations:

- A self-regulatory system in which the global brand owners or their local representatives are active participants has the ability to influence their global owners, while formal regulation would be less flexible and adaptable and would arguably find it harder to harness the goodwill of global players
- These trends further challenges in meeting the 'rational and proportionate' connection test under the NZ Bill of Rights given the limitations of any selective or comprehensive marketing bans
- Further regulation could be bad for the NZ economy with limited effect on global brands, primarily in the spirits market to engage NZ consumers

14. Appendix

A) Questions to Guide Submissions

1. Did you/your group/your organisation make a submission on the 2010 Law Commission report *Alcohol in our Lives: Curbing the Harm* and/or to the Justice and Electoral select committee, on alcohol advertising and sponsorship issues?

Yes

Alcohol Advertising

2. Do you support further restrictions on alcohol advertising (over and above the measures currently undertaken) to reduce alcohol-related harm?

No

3. What reasons do you have for your view?

See above

4. What evidence is available to support your view (please cite references if available, or provide supporting information) ***Please focus on evidence since 2010 if this is available.***

See above. The Ministerial Forum should be focussed on the best available evidence before or since 2010 and it should not rely on the interpretation of the Law Commission to assess material created prior to 2010 given the Commission's analysis of much of the material was flawed.

5. Do you think the available evidence is strong enough for changes to be made now? Explain your reasons.

No. See above.

Alcohol Sponsorship

6. Do you support further restrictions on alcohol sponsorship to reduce alcohol-related harm?

No

7. What reasons do you have for your view? Please include details.

See above.

8. What evidence is available to support your view (please cite references if available, or provide supporting information). ***Please focus on evidence since 2010 if this is available.***

See above. Again, the Ministerial Forum should be focussed on the best available evidence before or since 2010 and it should not rely on the interpretation of the Law Commission to assess material created prior to 2010 given the Commission's analysis of much of the material was flawed.

9. Do you think the available evidence is strong enough for changes to be made now? Explain your reasons.

No.

Types of possible restrictions on advertising (if supported)

10. If further restrictions to **alcohol advertising** are necessary, what do you think should be done?
11. How would these proposed restrictions work in practice to reduce alcohol-related harm (e.g. crime, disorder, negative public health outcomes)?
12. What evidence is available that your proposal(s) would work?
13. What other interventions could potentially be tried in future?
14. Why should these other interventions be considered?

N/A

Types of possible restrictions on advertising (if supported)

15. If further restrictions to **alcohol sponsorship** are necessary, what do you think should be done?
16. How would these proposed restrictions work in practice to reduce alcohol-related harm (e.g. crime, disorder, negative public health outcomes)?
17. What evidence is available that your proposal(s) would work?
18. What other interventions could potentially be tried in future?
19. Why should these other interventions be considered?

N/A

Impacts of proposals - advertising

20. Who would be affected by your proposals to restrict **alcohol advertising** and how?
21. How might these proposals impact on:
 - alcohol consumption, particularly among young drinkers and heavy drinkers;
 - the perception of alcohol as an everyday commodity, particularly among children and young people;
 - alcohol-related harm;
 - businesses, such as the alcohol and advertising industries;
 - the recipients of alcohol sponsorship funds; and
 - different populations – e.g. youth, children, Māori, Pasifika, lower socio-economic populations.

Again, see above.

Impacts of proposals - sponsorship

22. Who would be affected by your proposals to restrict **alcohol sponsorship** and how?
23. How might these proposals impact on:
 - alcohol consumption, particularly among young drinkers and heavy drinkers;
 - the perception of alcohol as an everyday commodity, particularly among children and young people;
 - alcohol-related harm;
 - businesses, such as the alcohol and advertising industries;
 - the recipients of alcohol sponsorship funds; and
 - different populations – e.g. youth, children, Māori, Pasifika, lower socio-economic populations.

See above

Ongoing and new challenges - advertising

24. What ongoing and emerging challenges does the Forum need to take into account when considering whether further restrictions on **alcohol advertising** are necessary to reduce alcohol-related harm?

25. What action, if any, could be taken to address these matters?

See above.

Ongoing and new challenges - sponsorship

26. What ongoing and emerging challenges does the Forum need to take into account when considering whether further restrictions on **alcohol sponsorship** (e.g. of sporting, cultural and other events) are necessary to reduce alcohol-related harm?

27. What action, if any, could be taken to address these matters?

See above.

Other comments

Do you have any other comments?

See above.

Making a submission

Submissions close on **Monday 28 April 2014 at 5pm.**

- If you would like further information during the submission period please email alcoholadvertisingforum@moh.govt.nz and put 'Forum information' in the subject line.

Please detach and return.

Name:	John Knowles (CEO)
If this submission is made on behalf of an organisation, please name that organisation here:	Manawatu Rugby Union
Address/email:	PO Box 1729, Palmerston North
Please provide a brief description of your organisation (if applicable):	Administration of Professional and Amateur Rugby played in Manawatu.

There are two ways you can make a submission.

- Forward your comments, with the detachable submission form at the back of this document, to:
Nick Goodwin
Secretariat for Ministerial Forum on Alcohol Advertising & Sponsorship
Ministry of Health
PO Box 5013
Wellington 6145
- Electronically complete the submission form available at the back of this document, add your comments and email to:
alcoholadvertisingforum@moh.govt.nz
- **Please put 'Forum Submission' in the subject line.**

Your submission may be requested under the Official Information Act 1982. If this happens, it will normally be released to the person who requested it. However, if you are submitting as an individual (rather than representing an organisation), your personal details will be removed from the submission if you check the following boxes:

- I do not give permission for my personal details to be released under the Official Information Act 1982.
- I do not give permission for my name to be listed in the published summary of submissions.

Questions to guide your submission

1. Did you/your group/your organisation make a submission on the 2010 Law Commission report *Alcohol in our Lives: Curbing the Harm* and/or to the Justice and Electoral select committee, on alcohol advertising and sponsorship issues? **Yes or No.** If yes, please specify whether you submitted to the Law Commission and/or Select Committee.

No

2. Do you support further restrictions on **alcohol advertising** (over and above the measures currently undertaken) to reduce alcohol-related harm? **Yes or No.** [Tick box]

Yes



No

3. What reasons do you have for your view? Please include details.

All business partners contributing to the funding of sport have an expectation that either their business or their products are marketed through advertising in some way. Brewery and liquor outlets are no different and in return provide much needed cash and kind (gear bags, water bottles etc) to most rugby clubs in our district. The Brewery sponsorship also assists the Manawatu Rugby Union through cash contribution to assist in the running of professional and amateur rugby.

Over recent years, the level of alcohol advertising on sports fields and through media advertising has been scaled down substantially and in our local environment is no long a dominant feature. It is our belief that the level of advertising across our sport is appropriate for the sponsorship returns provided to clubs and the Union and is of minimal influence on impressionable young children and youth.

The Union works closely with the stadium operators to ensure the right balance of advertising is also provided and does not associate our top sporting men and women directly with a liquor product or brand. Our profile players within Manawatu are certainly not associated with any alcohol brand, and therefore do not influence or encourage youth to drink products advertised.

We believe that the level of advertising currently used is about right, without the need for further restrictions. Without operating clubroom bars or receiving benefits from local bars and restaurants, a number of our clubs would be forced to close their doors or at best reduce the level of activity they currently provid to their communities.

4. What evidence is available to support your view (please cite references if available, or provide supporting information). Please focus on evidence since 2010 if this is available.

I have had recent discussions with the Palmerston North Police to check on the level of incidents of alcohol related crime in Manawatu that could be associated with our sport. I have been advised that over the last two to three years there are no reported instances where offences can be attributed to drinking at rugby matches at the stadium or in clubrooms around the region. It was commented that police in this district were pretty happy with the way in which rugby conducted its affairs and took a responsible attitude toward managing the consumption of alcohol.

In no fewer than twice each year the Manawatu Rugby Union discusses with affiliated clubs, their responsibility in advertising sensibly, and in managing the sale of liquor in their clubrooms. Security guards are employed at club matches to ensure there is no alcohol bought into grounds by players or supporters.

Ground signage (flags and goal post protectors) are no longer being used at club matches on most of our grounds, and there is a gradual replacement of such on remaining grounds as clubs source funding from other providers to replace existing equipment.

5. Do you think the available evidence is strong enough for changes to be made now? Explain your reasons.

The education that has taken place over the last three years has had a significant impact on the attitudes of sporting organisations. It is our belief (based on the communication and observed evidence) that sporting organisations are well aware of the issues of advertising liquor and have taken all appropriate action without the need for more restrictions to be applied.

6. Do you support further restrictions on **alcohol sponsorship** to reduce alcohol-related harm? **Yes or No.** [Tick box]

Yes

No

7. What reasons do you have for your view? Please include details.

Sponsorship of sport, in all its forms, is vital to the survival of many clubs and sporting activities. To rely solely on local businesses to provide sufficient funds to operate sporting activity would see a rapid decline in many activities. It is therefore necessary to have support from national brands, such as major liquor companies.

In turn, less advertising and sponsorship from alcohol related industries will see a reduction in available Community Trust funding that at present provides for the many small sporting clubs running community based sporting activity for children, youth and adults..

A further reduction in alcohol sponsorship will impact enormously on organisations and activities necessary for the development of an 'active community'.

The impact of a reduction will put massive pressure on local bodies and Central Government to fill the void in providing community based sporting activity. At present local Councils themselves are receiving Community Trust funding to support the operating costs of maintaining sports grounds in the community.

Reduced alcohol sponsorship will have a direct impact on gaming trust funding and in turn will influence the level of sporting activity and facilities that can be provided locally.

8. What evidence is available to support your view (please cite references if available, or provide supporting information). Please focus on evidence since 2010 if this is available.

The downturn in liquor sales and the revenue generated by the liquor industry has reduced sponsorship levels to the Manawatu Rugby Union massively over the last six years. Our current negotiations would indicate a further reduction for the next three years.

Community Trust funding is also reducing year on year, and the Union has been advised of further cuts of \$200,000 in 2014. It is difficult to image how organisations such as ours can continue to provide the level of community sport we do without alcohol related funding, both directly and indirectly.

Unless local bodies or central government plan on filling the void that will be created, it is difficult to see how community sport will be provided – particularly to lower socio-economic communities in our district where there is an inability to fund children's sport from the income of many of the families in these communities.

9. Do you think the available evidence is strong enough for changes to be made now? Explain your reasons.

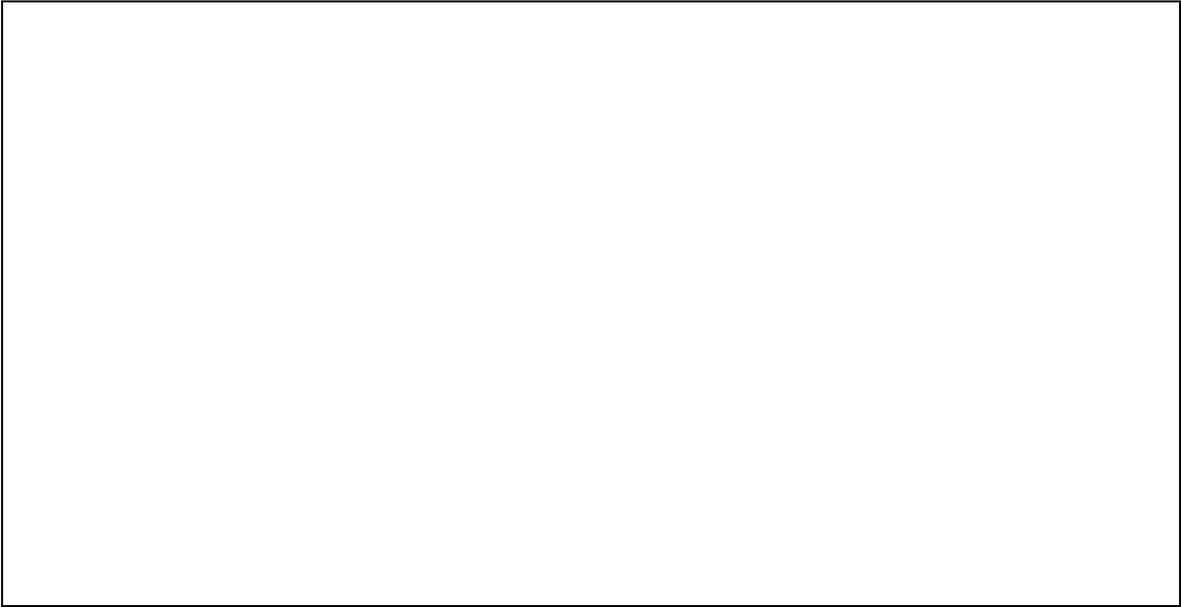
The response to question 8 is clear evidence that current legislation is already having a significant impact on the alcohol industry. There is no further need to put more restrictions in place, as there is already a significant decline in the sale of alcohol, and consequently, declining sponsorship funding available.

Types of possible restrictions (if supported)

10. If further restrictions to **alcohol advertising** are necessary, what do you think should be done?

Identify the specific events that cause issues as a consequence of over indulging in alcohol by the public, and target these operations, rather than upset the support provided to small organisations and events held in local communities, where advertising is minimal and negative behaviour not an issue.

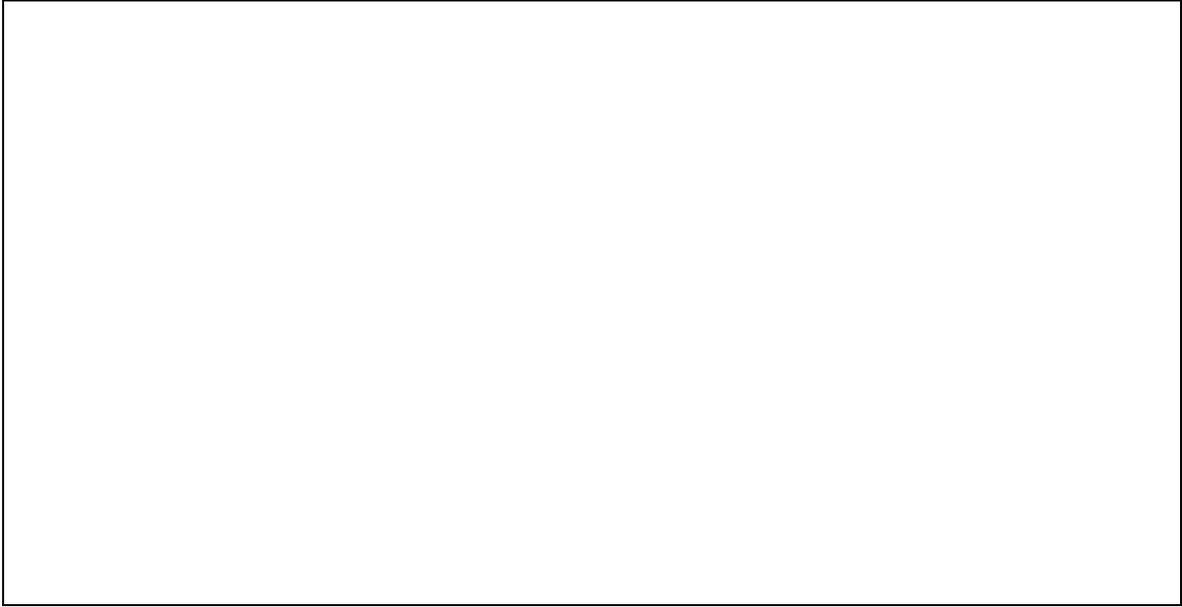
11. How would these proposed restrictions work in practice to reduce alcohol-related harm (e.g. crime, disorder, negative public health outcomes)?



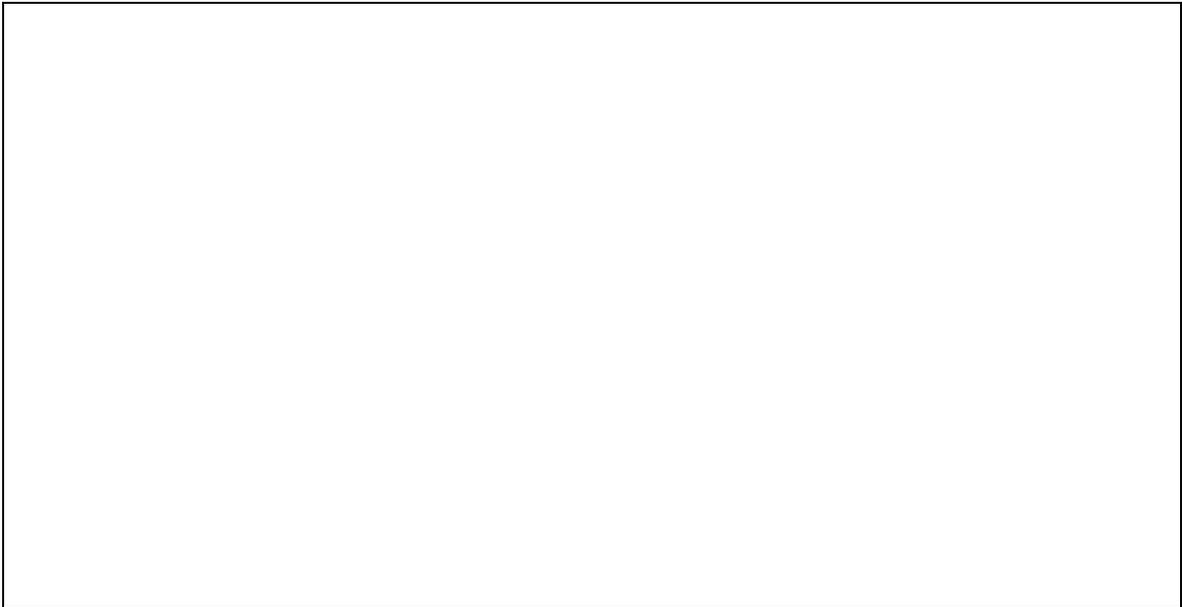
12. What evidence is available that your proposal(s) would work?



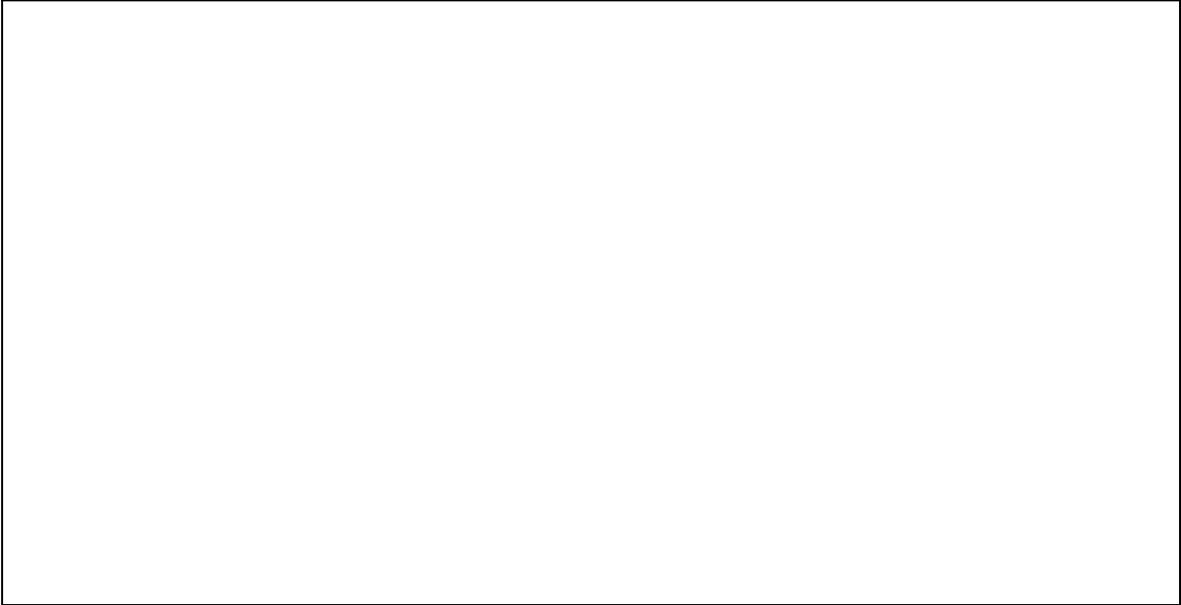
13. What other interventions could potentially be tried in future?



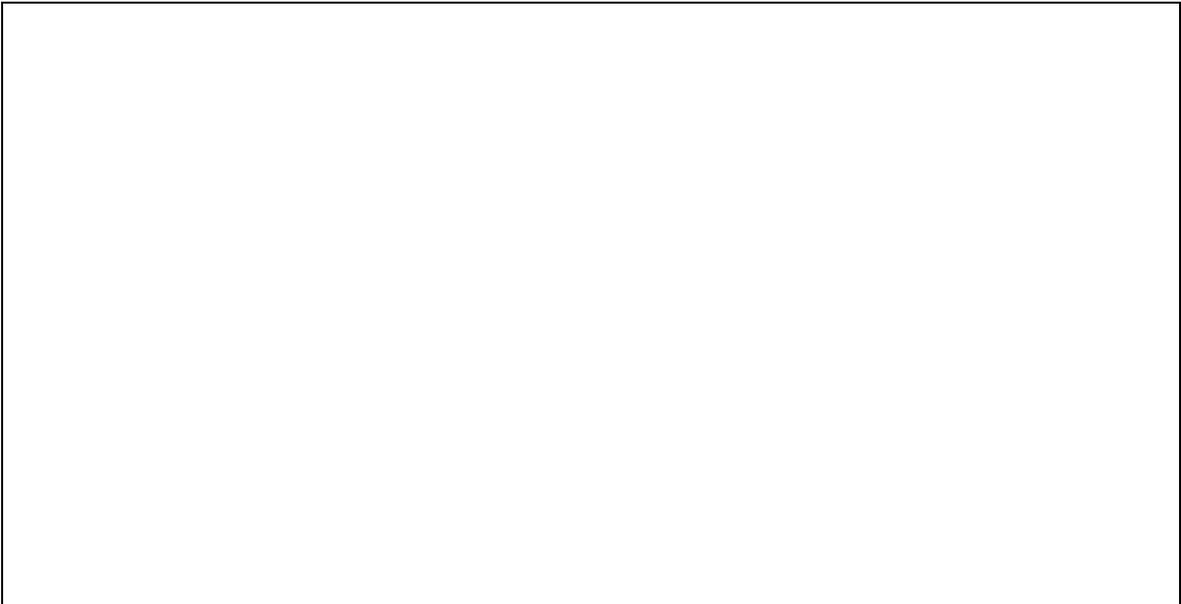
14. Why should these other interventions be considered?



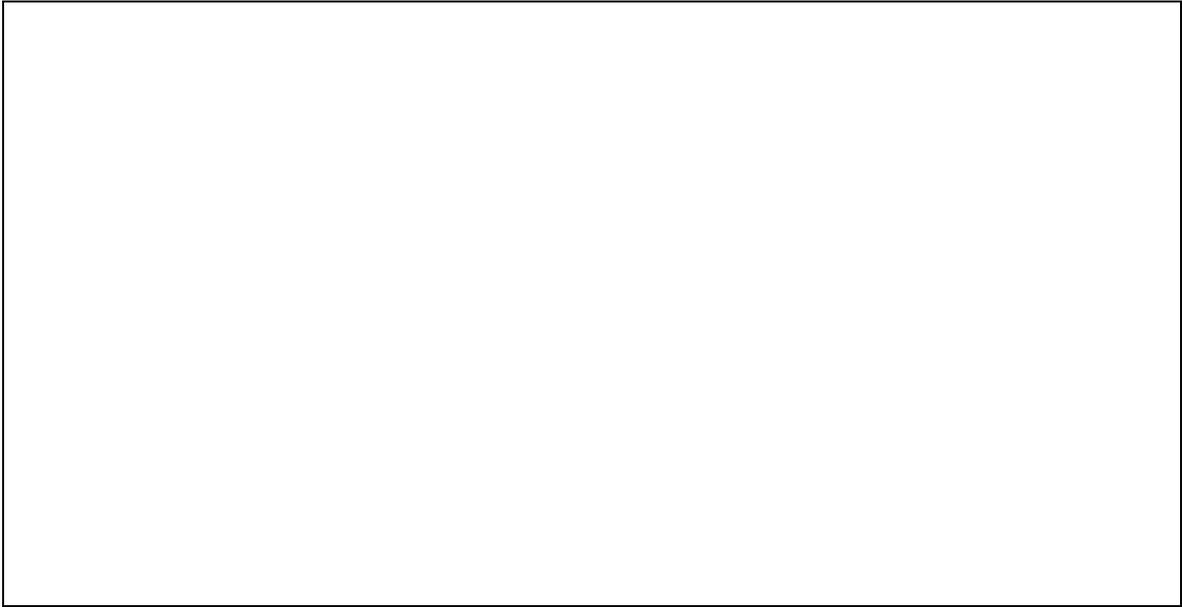
15. If further restrictions to **alcohol sponsorship** are necessary, what do you think should be done?



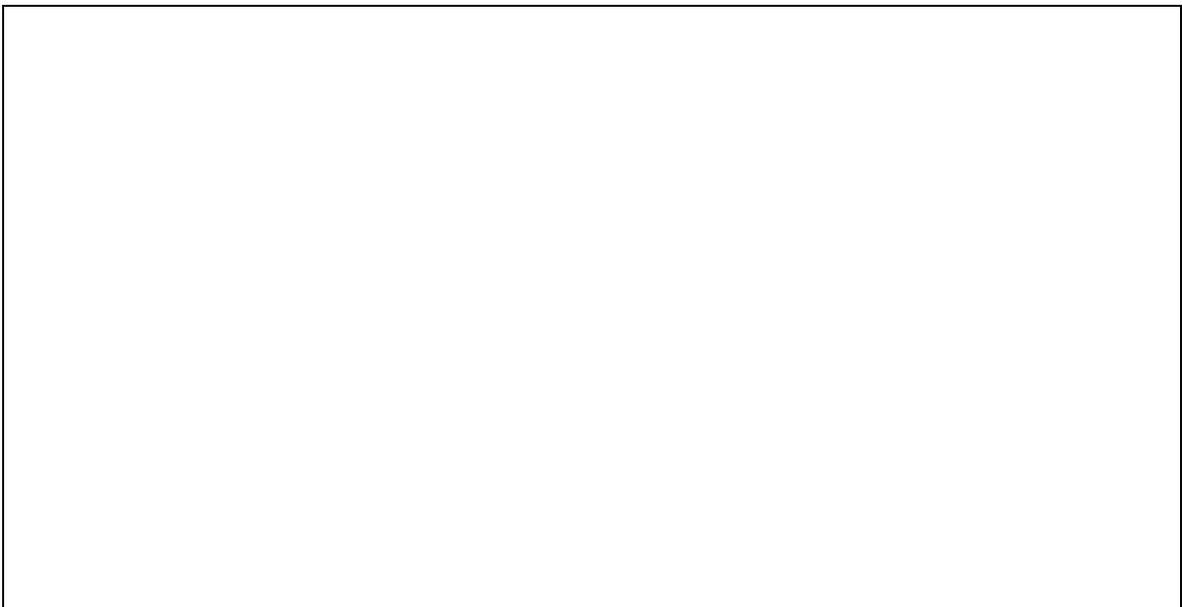
16. How would these proposed restrictions work in practice to reduce alcohol-related harm (e.g. crime, disorder, negative public health outcomes)?



17. What evidence is available that your proposal(s) would work?



18. What other interventions could potentially be tried in future?



19. Why should these other interventions be considered?



Impacts of proposals

20. Who would be affected by your proposals to restrict **alcohol advertising** and how?



21. How might these proposals impact on:

- alcohol consumption, particularly among young drinkers and heavy drinkers;
- the perception of alcohol as an everyday commodity, particularly among children and young people;
- alcohol-related harm;
- businesses, such as the alcohol and advertising industries;
- the recipients of alcohol sponsorship funds; and
- different populations – e.g. **youth, children, Māori, Pasifika, lower socio-economic** populations.



22. Who would be affected by your proposals to restrict **alcohol sponsorship** and how?



23. How might these proposals impact on:

- alcohol consumption, particularly among young drinkers and heavy drinkers;
- the perception of alcohol as an everyday commodity, particularly among children and young people;
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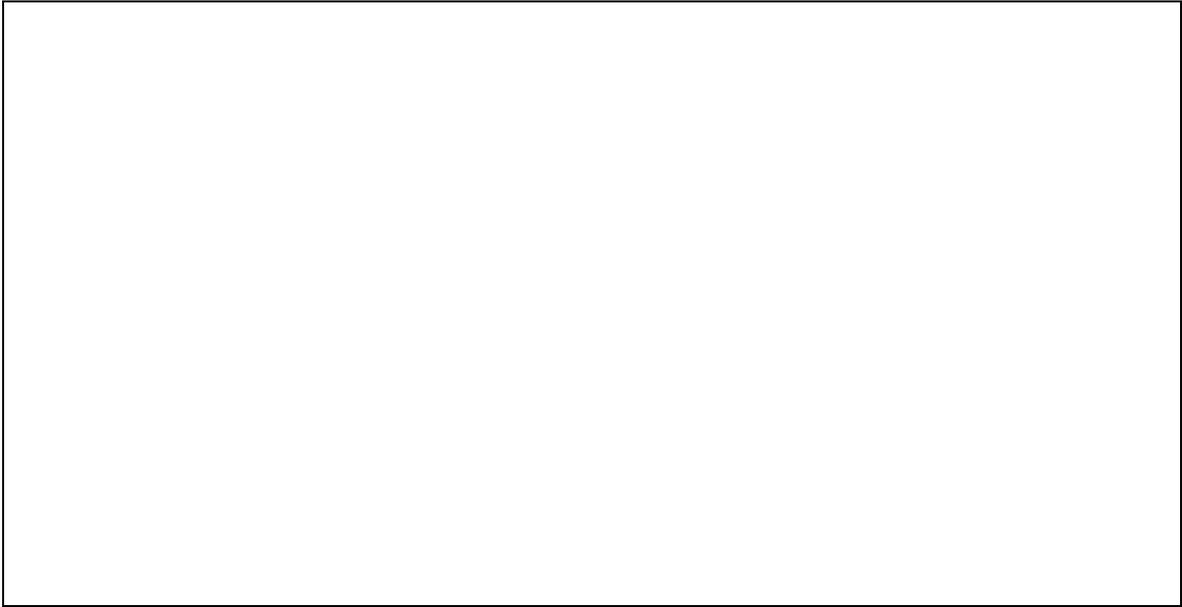


Ongoing and new challenges

24. What ongoing and emerging challenges does the Forum need to take into account when considering whether further restrictions on **alcohol advertising** are necessary to reduce alcohol-related harm?

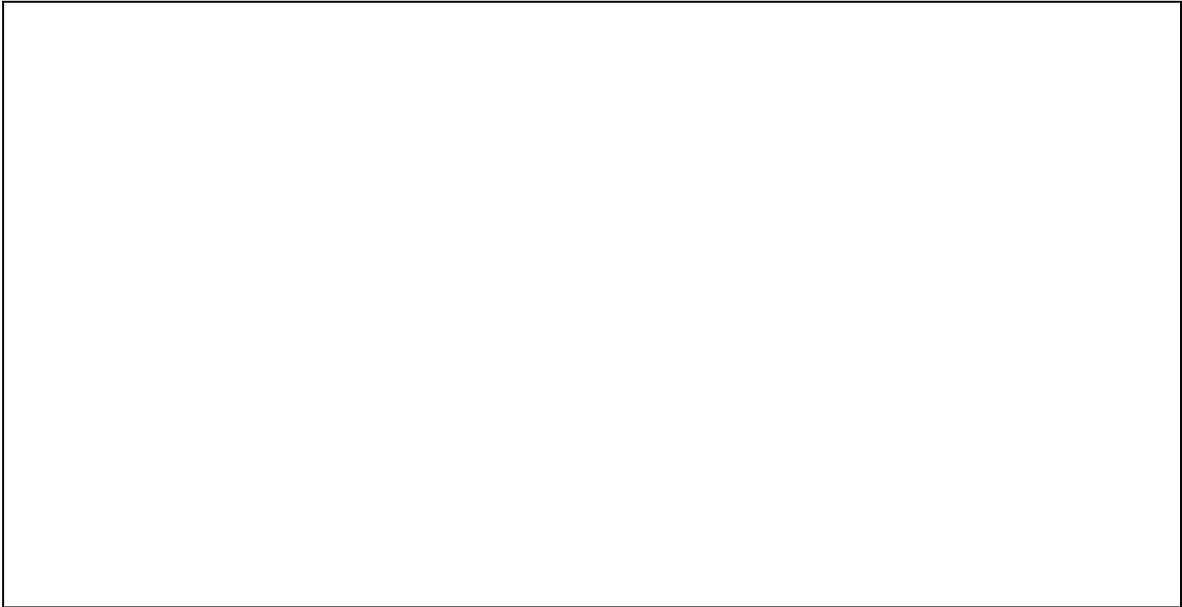


25. What action, if any, could be taken to address these matters?

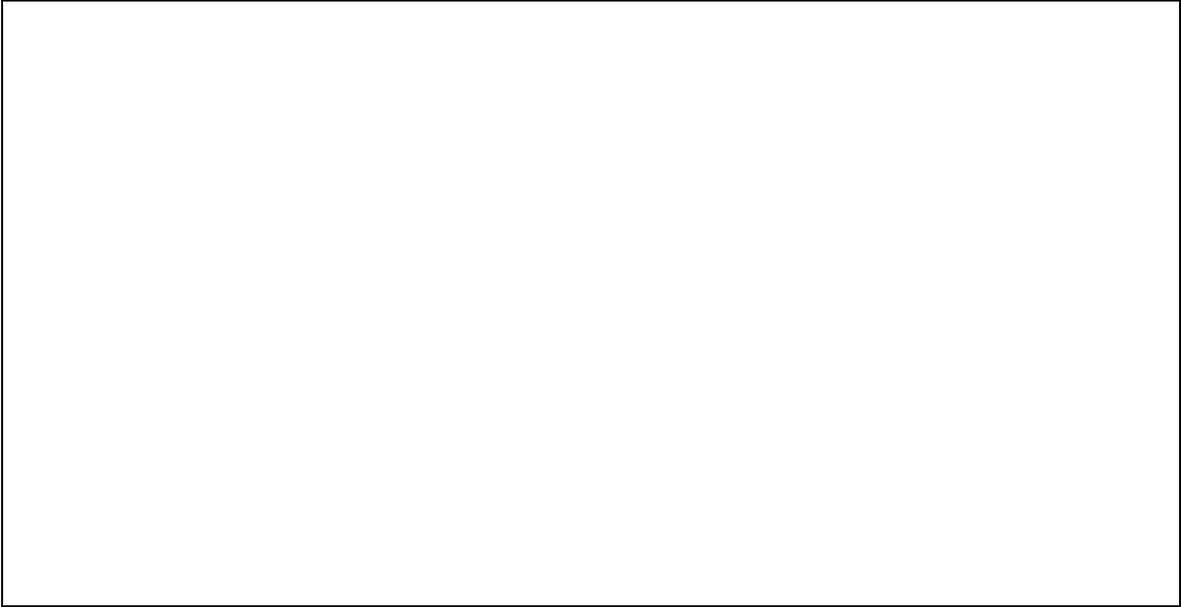


26. What ongoing and emerging challenges does the Forum need to take into account when considering whether further restrictions on **alcohol sponsorship** (e.g. of sporting, cultural and other events) are necessary to reduce alcohol-related harm?



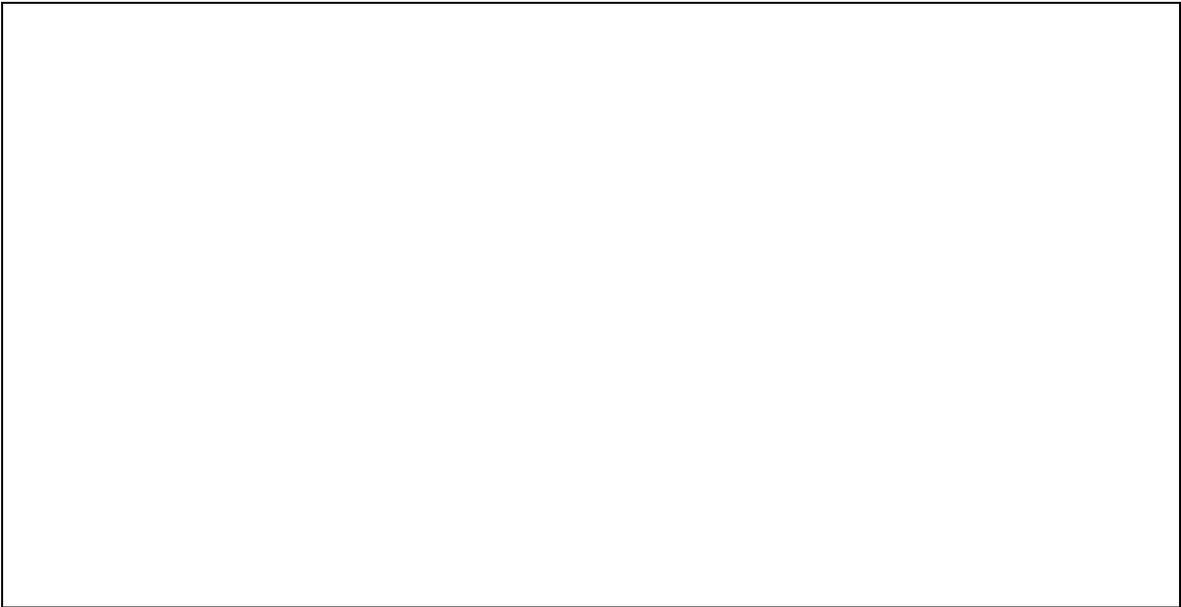


27. What action, if any, could be taken to address these matters?



Other comments

28. Do you have any other comments?



Submission to the Ministerial Forum on Alcohol Advertising and Sponsorship

April 2014

Summary

The Māngere-Ōtāhuhu Local Board welcomes the opportunity to make this submission to the Ministerial Forum on Alcohol Advertising and Sponsorship and would be pleased to take up any further opportunity to speak to the Forum.

The Māngere-Ōtāhuhu Local Board is one of 21 local boards within the Auckland Council governance structure. It represents the Māngere-Ōtāhuhu geographic area and a community that suffers great harm from alcohol. A key advocacy area for the Board is alcohol harm minimisation.

In our view, it is a significant concern that a legalised drug is allowed to be heavily advertised and promoted in our communities, including to our most vulnerable teenagers and young people. Alcohol advertising has glamorised and normalised the consumption of alcohol. It has acted as a powerful recruiter of young drinkers from our community.

While the Board recognises that alcohol advertising is placed in a wide variety of media, as a local body, the Board has focused its submission on issues it has a strong interest in:

- irresponsible promotions,
- advertising on billboards,
- advertising on street frontages outside off-licence premises,
- advertising or promotion inside supermarkets, and
- sponsorship and advertising on Council property.

It is our submission that:

- the Forum should support the immediate implementation of Stages 2 and 3 of the Law Commission recommendations on alcohol advertising and sponsorship as set out in their report *Alcohol in Our Lives – Curbing the Harm 2010*
- we welcome guidelines on ‘irresponsible promotions’ so that our communities can understand more clearly what is and isn’t allowed,
- legislation be passed to clearly allow local authorities to prohibit or regulate billboard content that advertises alcohol, and signs advertising alcohol (including sandwich boards), and that
- sections 112 to 115 of the Sale and Supply of Alcohol Act be strengthened to properly limit the exposure of shoppers in supermarkets to displays, promotions and advertisements for alcohol.

In addition, we will be encouraging the Governing Body of Auckland Council to better understand the conflict between the *Auckland Council Alcohol Harm Reduction Strategy* and the advertising and sponsorship of alcohol on Council property and at its events. We wish to ensure, at a minimum, that alcohol advertising be prohibited where an event or audience aimed at includes children or young people.

Terms of Reference of the Ministerial Forum

Despite most submitters to the Alcohol Reform Bill wanting the legislation that became the Sale and Supply of Alcohol Act ('SSAA') to address advertising and sponsorship of alcohol, it largely did not do so.

Instead, the Ministerial Forum on Alcohol Advertising and Sponsorship (the 'Forum') has been established to consider the effectiveness of further restrictions on alcohol advertising and sponsorship to reduce alcohol-related harm. The Forum will report to the Ministers of Justice and Health by 1 October 2014.

By way of background the Forum noted that in 2010 the Law Commission presented its report *'Alcohol in our Lives: Curbing the Harm'* recommending a three stage programme of advertising interventions which would be in place within five years:

- Stage 1: Immediate implementation of a new offence relating to irresponsible promotion of supply and consumption of alcohol (section 237 of the SSAA)
- Stage 2: Introduction of legislative measures aimed at reducing exposure to advertising, particularly for young people
- Stage 3: Introduction of measures that aim to restrict the promotion of alcohol, including sponsorship, in all media (to only that which communicates objective product information, such as the characteristics of the beverage, the manner of its production and price).

The Forum is now seeking submissions from affected stakeholders and the public. The Forum also has a focus on populations that suffer greater harm from alcohol (including Māori, Pacific and young people) and says it would be particularly interested in submissions from or relating to these groups.

Māngere-Ōtāhuhu Local Board

The Māngere-Ōtāhuhu Local Board is one of 21 local boards within the Auckland Council governance structure. It represents the Māngere-Ōtāhuhu geographic area.

The population living within the Local Board area has a young age structure. In 2006, almost a third (30%) of the resident population was aged under 15 years, 63 per cent aged between 15 and 64 years, and 7 per cent aged 65 years or over. The median age was 27.4 years, considerably younger than the Auckland regional median of 33.9 years. This population is also one of the most ethnically diverse. In 2006, more than half of its residents identified within the broad 'Pacific peoples' ethnic grouping – the highest proportion of residents across all 21 local boards. Under half (43%) of residents were born overseas, and of that group, 55 per cent had been in New Zealand

for ten years or more. The largest number of overseas born residents were born in Samoa, Tonga and Fiji.¹

Research prepared by the Auckland Council for the Māngere-Ōtāhuhu Local Board clearly shows that alcohol has a profound effect on communities in Māngere-Ōtāhuhu (Auckland Council Local Alcohol Research Project). In particular:²

- The proportion of alcohol-related crashes on local roads was higher in the Urban South area (which includes the Māngere-Ōtāhuhu Local Board area) than it was for the Auckland region as a whole
- The proportion of the offender count for drink driving offences is above average in the Māngere-Ōtāhuhu Local Board station areas. This combined with the data for crashes suggests that drink driving may be an issue for the Māngere-Ōtāhuhu Local Board station area.
- Respondents to a Nielsen Survey undertaken on behalf of Auckland Council in the Māngere-Ōtāhuhu Local Board area were significantly more likely to agree that: drunk people often cause damage in their neighbourhoods; that drunk people urinating in public, vomiting or being loud is common; and that negative or extremely negative impacts of drinking occur in their suburb in particular.

In addition, analysis and research with community stakeholders confirm that the issue of the impact of alcohol sales from off-licence premises is a focus of concern among communities in New Zealand. In Manukau City, off-licence liquor outlets tend to be located in areas of high social deprivation and high population density, while on-licence liquor outlets tend to be located in main centres and areas of high amenity value. Higher off-licence density is associated with lower alcohol prices and longer opening hours. The density of both off-licence and on- licence liquor outlets is associated with a range of social harms, including various police events and motor vehicle accidents.³

The Māngere-Ōtāhuhu Local Board has been very concerned about the effects of alcohol on its community since it was established. The Māngere-Ōtāhuhu Local Board Plan 2011 (page 21) notes that: *“Alcohol abuse is the cause of many of our communities’ social and medical ills which in many cases impact on both the families of problem drinkers and the wider community. Heavy drinkers cause considerable collateral damage that can be observed at the local hospital emergency department, a visit to Women’s Refuge or to an addiction clinic.”* The Plan also notes the Board’s *“communities have told us very clearly that we should be an advocate and leader, particularly on our significant social and economic issues”* and states that the Board will *“have input on liquor”* (pages 21 and 22).

The 2014/15 Māngere-Ōtāhuhu Local Board Agreement states that a key advocacy area for 2014/2015 is: *“Alcohol harm minimisation through reducing proliferation of off-licenses.”*

¹ Māngere-Ōtāhuhu Local Board 2012 Demographic Report Card. See <http://stateofauckland.aucklandcouncil.govt.nz/demographic-report-card/mangere-otahuhu-local-board/>

² See *Auckland Council Local Alcohol Research Project, Local Board Specific Summary of Information: Māngere-Ōtāhuhu Local Board* (2012)

³ *The Impacts of Liquor Outlets in Manukau City Summary Report – Revised*. Alcohol Advisory Council of New Zealand (January 2012)

Advertising, Sponsorship and Promotion

Various estimates suggest the alcohol industry in New Zealand spends hundreds of millions of dollars every year on alcohol advertising, sponsorship and promotion.⁴

The Board agrees with the view expressed by the Law Commission that the promotion of alcohol is an enormously well-funded, ingenious and pervasive aspect of modern life. "Alcohol advertising predisposes minors to drinking well before the legal age of purchase. Marketing strategies, such as alcohol sports sponsorships, embed images and messages about alcohol into young people's everyday lives. The climate created by sophisticated alcohol marketing has facilitated the recruitment of new cohorts of young people to the ranks of heavier drinkers and has worked against health promotion messages".⁵

The Board also agrees that alcohol sponsorship has become more important to alcohol marketing. "Alcohol sponsorship deals for sports events, teams and clubs now routinely involve naming rights, and mentions in sports commentaries; signage on clothing, sports grounds and products retailed to fans; and opportunities for direct marketing through product donations and exclusive pourage rights. Packages worth millions of dollars are concluded between sports federations and alcohol corporates ... Sponsorship money is the price of entry to an event and its marketing opportunities, but high 'leverage' spending on related media and retail promotions ensures maximum exposure and maximum sales."⁶

In our view, it is a significant concern that we have allowed a legalised drug to be heavily advertised and promoted in our communities, including to our most vulnerable teenagers and young people. Alcohol advertising has glamorised and normalised the consumption of alcohol. It has acted as a powerful recruiter of young drinkers from our community. It has linked the 'rites of passage' for young people to the consumption of alcohol and created significant peer pressure to drink. Promotion is so prevalent that 90 percent of children are exposed to alcohol advertising on television every week. With alcohol being openly sold in all our supermarkets, children of all ages are growing up with the impression that the consumption of alcohol is normal.

In a recent study of youth in Māngere, respondents reported considerable harms associated with the alcohol. Drunkenness and vomiting were the most commonly reported. Getting into arguments and physical fights, trouble with parents and taking time off from school were reported by between 40% and 22% while arrests, hospital visits and unplanned sex were reported by between 17% and 6%. There were reports of three deaths caused by the social supply of alcohol in Māngere in the study.⁷

The Board does not believe we will reduce our binge drinking culture if we allow the current level of advertising and sponsorship to continue. We understand that the alcohol industry is second only to the gambling industry in the sums it spends on advertising. Many people and groups from our community have advocated a tobacco-style prohibition of all alcohol advertising across all media and a phasing out of alcohol advertising or sponsorship of all sporting and cultural events.

⁴ Law Commission. 2010. *Alcohol in our Lives: Curbing the Harm*, para 19.1 to 19.15

⁵ Law Commission. 2010. *Alcohol in our Lives: Curbing the Harm*, para 19.18

⁶ Law Commission. 2010. *Alcohol in our Lives: Curbing the Harm*, para 19.25

⁷ *Social Supply of Alcohol to Young People in Taranaki and Mangere*. Report to Ministry of Health by SHORE and Whariki Research Centre School of Public Health, Centre for Social and Health Outcomes Research and Evaluation & Whariki, Massey University (December 2012)

Local Alcohol Advertising and Sponsorship

While the Board recognises that alcohol advertising is placed in a wide variety of old and new media, including print, broadcast, and the internet, as a local body, the Board has decided to focus this part of our submission on issues we have a strong interest in:

- irresponsible promotions,
- advertising on billboards
- advertising on street frontages outside off-licence premises,
- advertising or promotion inside supermarkets, and
- sponsorship and advertising on Council property.

Irresponsible promotions

As noted above, section 237 of the SSAA introduced a new offence relating to irresponsible promotion of supply and consumption of alcohol. We understand it is now generally an offence to: (i) encourage excessive consumption of alcohol; (ii) have promotions involving discounts, or to advertise discounts, on alcohol of 25% or more (if they can be seen from outside premises); (iii) promote or advertise free alcohol (if it can be seen from outside premises – but this does not apply to product tasting); (iv) offer goods, services, or prizes on condition that alcohol is bought; or to (v) promote alcohol with special appeal to minors.

We welcome new national guidelines being drafted on ‘irresponsible promotions’ so that our communities can understand more clearly what is and isn’t allowed. In particular, we are interested in there being greater clarity about whether the promotion of ‘single sales’ of beer, RTDs or miniature spirits are an ‘irresponsible promotion’.

Billboards

While we expect the regulation of billboard advertising of alcohol should remain under the control of local authorities, we believe consideration of this issue comes within the terms of reference of the Forum.

In our view, billboards advertising or promoting alcohol are a very prominent form of promotion. The ‘Tui – Yeah Right’ billboard advertising campaign is but one example. Often billboards are located on motorways, at major traffic intersections or near public places through which many people (including children) pass on a daily basis. They are a significant medium through which alcohol is advertised, sponsored and promoted, and have a negative impact on our communities, similar, we suggest, to the impacts from other media (such as print and broadcast media).

See the photograph of the ‘Corona’ advertisement on the billboard of south-western motorway north of Mangere, below, by way of example.



While we could find few studies of the specific impact of billboard advertising of alcohol in New Zealand,⁸ we located several references to international studies via the internet.⁹ They suggested that the alcohol industry is a leading advertiser on billboards.¹⁰

Billboards are typically regulated either through a local authority's district plan or bylaws (or both). By way of example, in Manukau (including the area of the Local Board), billboards are regulated through the legacy Manukau City Council District Plan.¹¹ While the District Plan regulates the size, etc of billboards, it generally does not regulate the content of billboards. In particular, it does not differentiate between billboards advertising alcohol products or other products.

In Auckland, it is planned that billboards will in future be regulated through the Auckland Unitary Plan. Again, the Unitary Plan does not generally intend to regulate the content of billboards or differentiate between billboard advertising alcohol products and other products.¹²

Because of the nature of the regulatory power by which local authorities regulate billboards, we have a question whether this is sufficient to allow them to regulate or differentiate between types of content. Our sense is that a clear legislative mandate may be required. Nonetheless, we note that some cities overseas have passed bylaws prohibiting alcohol advertising on billboards near schools, residential areas, and community facilities.¹³ In some cases these have been legally challenged on grounds

⁸ See, however, Alcohol Healthwatch, 'Alcohol Marketing – An Update' (July 2005)

⁹ See <http://www.scenic.org/billboards-a-sign-control/tools-for-action/109-alcohol-advertising-on-billboards>

¹⁰ See <http://www.scenic.org/billboards-a-sign-control/tools-for-action/109-alcohol-advertising-on-billboards>

¹¹ See *Manukau City Council District Plan* (Chapter 5.14) and the Manukau City Consolidated Bylaw 2008 (Temporary Signs Bylaw).

¹² See *Proposed Auckland Unitary Plan*, Part 2, Chapter C, 7.4 Signs; and Part 3, Chapter H, 6.3 Signs.

¹³ See, for example, <http://www.scenic.org/billboards-a-sign-control/tools-for-action/109-alcohol-advertising-on-billboards> (which states that such ordinances have been passed in Baltimore, Oakland and San Diego). See also Richmond

they restrict freedom of speech, but have been upheld. It has also been reported that alcohol advertising on billboards has been prohibited in some countries (e.g. Kenya and Israel).¹⁴

In our view, billboards advertising or promoting alcohol must be treated as one of important media being considered by the Forum as it considers the introduction of legislative measures aimed at reducing exposure to advertising, particularly for young people, and the introduction of measures to restrict the promotion of alcohol, including sponsorship, in all media. Perhaps legislation needs to be passed clearly allowing local authorities to prohibit or regulate billboard content advertising alcohol.

Frontages outside off-licence premises

Again, while we expect the regulation of signage advertising alcohol on street frontages outside off-licence premises (including sandwich boards) should remain under the control of local authorities, we also believe this issue comes within the terms of reference of the Forum.

In our view, signage (including sandwich boards) advertising alcohol outside off-licence premises in our local board area can be very prominent. This is an important medium through which alcohol is advertised (particularly from individual 'neighbourhood bottle stores'). It has a negative impact on our communities.

There are many examples of bottle stores (especially 'neighbourhood bottle stores') in our community whose alcohol advertising covers the entire front wall and windows of the premises (or certainly much more than 50%). See the photograph below of Cavendish Liquor, in Manukau, by way of example.



City in San Francisco (<http://www.sfgate.com/bayarea/article/Richmond-City-Council-bans-alcohol-ads-on-4908304.php>)

¹⁴ <http://news.bbc.co.uk/2/hi/africa/4080074.stm>; <http://www.ynetnews.com/articles/0,7340,1-4253294,00.html>;

Many of these also have one or more sandwich boards on footpaths advertising brands, products and 'cut-prices' (in many cases intended to attract passing vehicle traffic). See the photograph below, from Otara, by way of example.



Currently signage is again regulated either through a local authority's district plan or bylaws (or both). By way of example, in Manukau (including the area of the Board), signage regarding off-licence premises is regulated both through the legacy Manukau City Council District Plan and the Manukau City Temporary Signs Bylaw.¹⁵ Like billboards, however, neither the District Plan nor the Bylaw generally regulate the content of signs.

Auckland Council has developed a '*Local Alcohol Preferred Position Paper*', which has indicated that issues regarding alcohol signage advertising will be addressed through a signs bylaw (along with all other types of advertising). The signage bylaw is currently being developed and will restrict advertising at a general level by regulating the number and size of signs permitted at retail outlets. "*This bylaw will regulate the number, location and size of signs for all types of retail, including off-licences*" (Pages 21-22). Again, it seems that the proposed 'Signs Bylaw' will not regulate 'content' by differentiating between signage advertising alcohol or other products.¹⁶

We note that other councils, such as Hamilton City Council, have expressed doubts about whether councils may lawfully impose signage restrictions: "Council decided not to implement any further signage controls as while they were considered to have a desirable effect, there were questions about the legality and enforceability of this."¹⁷

¹⁵ See *Manukau City Council District Plan* (Chapter 5.14); *Manukau City Bylaw 2008* (Temporary Signs Bylaw).

¹⁶ See *Proposed Auckland Unitary Plan*, Part 2, Chapter C, 7.4 Signs; and Part 3, Chapter H, 6.3 Signs.

¹⁷ See *Hamilton City Council, Local Alcohol Policy - Summary of Information and Statement of Proposal*, page 5.

Other councils, such as Taupo District Council, have sought to use the licensing process to impose requirements regarding frontage advertising, particularly on outside walls and windows.¹⁸

Like billboards, because of the nature of the regulatory power, we have a question whether this is sufficient to allow councils to regulate or differentiate between types of content. Our sense is that a clear legislative mandate may be required. Nonetheless, we note that some cities overseas have passed bylaws prohibiting the placement of free-standing outdoor advertising for alcoholic beverages in areas where children are likely to walk to school or play.¹⁹

In addition, improving the visibility into the premises from outside reduces the risk for robbery. People walking by should see as much of the premises' interior as possible. CPTED Guidelines state that there should be at least 50% transparency in the front of the premises so there is good visibility to and from the premises and the street. Reducing the number of advertising signs on windows and keeping windows clear of shelving and displays increases visibility.²⁰

In our view, signs advertising alcohol must be treated as one of media being considered by the Forum. It appears legislation needs to be passed to clearly allow local authorities to prohibit or regulate signs advertising alcohol (including sandwich boards). See the photograph below, from Mangere, by way of example.



¹⁸ <http://www.taupodc.govt.nz/our-services/Health-Liquor-and-Food/liquor/liquor-licensing/Documents/Application-for-new-OFF-Licence.pdf>

¹⁹ See, for example, J.A Coon, 'Municipal Control of Signs', New York State Department of State (2011), page 11 (which states that such ordinances have been upheld in the City of Baltimore)

²⁰ See 'Guidelines for Crime Prevention through Environmental Design (CPTED) for licensed premises' (June 2012). See http://www.alcohol.org.nz/sites/default/files/useruploads/Resourcepdfs/02859_CPTED_Guidelines_reduced.pdf

Advertising in Supermarkets

As noted by the Law Commission, the placement strategies of supermarkets seek to ensure that alcohol is highly visible. “This increases the likelihood of casual impulse purchases of alcohol ... and places unhealthy pressure on vulnerable groups such as children and young people, and those with alcohol dependency problems”.²¹

We note that sections 112 to 114 of the SSAA set out new compulsory conditions relating to display and promotion of alcohol in single areas in supermarkets and grocery stores. While the drafting of the sections is a little complex, the overall intent is clear. The purpose of these sections *“is to limit (so far as is reasonably practicable) the exposure of shoppers in supermarkets and grocery stores to displays and promotions of alcohol, and advertisements for alcohol.”*

Of some importance is the identification of the ‘alcohol area’ of the supermarket. Section 113 provides that the premises must be arranged so that the ‘alcohol area’ does not contain any area of the premises “through which the most direct pedestrian route between any entrance to the premises and the main body of the premises passes” or “through which the most direct pedestrian route between the main body of the premises and any general point of sale passes”. In addition, section 114 provides that “no display or promotion of, or advertisement for, alcohol [may] occur on the premises at any place outside the alcohol area.”

Our concern is that, following enactment of the SSAA, some supermarkets have rearranged their ‘alcohol areas’ in a manner that is, in our view, contrary to the overall purpose of these sections, while perhaps seemingly complying with the letter of them.

We have observed that some supermarkets have rearranged their alcohol area so that it is adjacent to the main entrance to the premises. They no doubt would argue that these areas are no longer ones through which customers must walk between the entrance to the premises and the main body of the premises. However, our view is that this section should be interpreted broadly to include situations where customers must walk ‘through’ by walking alongside these ‘alcohol areas’ as they enter premises. Certainly such an interpretation would fit more comfortably with the overall intent expressed in section 112.

We are further concerned that some supermarkets have created ‘stacks of beer’ or other advertising and promotions (including special ‘cut price’ signage and complimentary tastings) on the edge of or just within these ‘alcohol areas’ that can be clearly seen from outside the ‘alcohol area’. These ‘alcohol areas’ are typically colourful and brightly lit. They are often adjacent to the fruit and vegetable area - which almost everyone who enters a supermarket uses and circulates through selecting various items. Again in our view, this all seems contrary to the spirit of, if not the letter of, section 114 (which provides that no display or promotion of, or advertisement for, alcohol may occur on the premises at any place outside the alcohol area).

See the photograph below at Countdown, Manukau, by way of example.

²¹ Law Commission. 2010. *Alcohol in our Lives: Curbing the Harm*, paras 8.87 and 8.88. See also paras 8.79 to 8.98.



We expect those supermarkets who are operating in this manner believe they are acting within the new legal requirements (while we have our doubts). If it is the case that these practices are lawful, then it is our submission to the Forum that these sections of the SSAA must be strengthened so that the purpose of limiting (so far as is reasonably practicable) the exposure of shoppers in supermarkets and grocery stores to displays and promotions of alcohol, and advertisements for alcohol is achieved.

Certainly the Law Commission was clear that “there should be no displays of alcohol products at the supermarket’s entrance or at checkouts, as these positions seem to be areas of particular vulnerability for supermarket patrons.”²²

Alcohol Advertising and Sponsorship on Council Property

As noted earlier, the Board is also concerned that alcohol sponsorship has become a significant alcohol marketing tool.

In 2002, Manukau City Council adopted a Local Alcohol Strategy. Tool Five of the Strategy concerned ‘Advertising and Sponsorship on Council Property’ (page 25). It noted that Manukau City Council had an Advertising and Sponsorship Policy whose purpose was to guide development and management of advertising and sponsorship on and for Manukau City Council properties, assets and programmes. Manukau City Council's view was that no advertising activity in Manukau should compromise the visual amenity of the city nor the moral ground of the community.

²² Law Commission. 2010. *Alcohol in our Lives: Curbing the Harm*, para 8.98.

A general rule of the Policy was that the following advertising was not permitted: “promoting or condoning drink driving or alcoholic drinking amongst teenagers”.

The scope of the Policy was Council-wide and included the following properties: (i) stadiums, community halls, libraries, swimming pools, arts centres and other Council buildings; (ii) billboards on Council-owned land and buildings; (iii) programmes and activities; (iv) bus shelters, flag poles, road signs, Council’s website, notice boards, Council air space, and publications; (v) vending opportunities; (vi) and other opportunities as identified from time.

By way of other examples in the Auckland region, the former Franklin District Council ‘Franklin District Local Alcohol Policy’ provided: “There will be no Liquor Advertising in Council owned and operated premises used by minors” (page 11).

Auckland Council has also more recently adopted an *Alcohol Harm Reduction Strategy* 2012. The Strategy recognises a conflict in the strategy’s direction with advertising and sponsorship of alcohol (page 26).

“Auckland Council events are sometimes sponsored by alcohol companies and currently the alcohol industry can (and does) advertise on buses, at events and in parks and council facilities. Currently the space on most buses/public transport is not owned by council and therefore, at this time, Auckland Council does not have authority to prohibit alcohol advertising on buses and public transport.” (Page 26)

“Auckland Council in principle will commit to prohibiting alcohol advertising where the event or audience is aimed at children or young people. Many events are currently sponsored by the alcohol industry therefore it would not be appropriate to prohibit the use of all alcohol advertising and sponsorship. Auckland Council supports responsible use of alcohol and understands the need to ensure there is balance between adding value to the social and economic environment of Auckland and minimising alcohol-related harm in communities.” (Page 26)

In this regard, we will be encouraging the Governing Body of Auckland Council to better understand the conflict in the direction of the *Alcohol Harm Reduction Strategy* with advertising and sponsorship of alcohol, with a view of ensuring at a minimum that alcohol advertising be prohibited where the event or audience is aimed at children or young people.

Conclusions

The Māngere-Ōtāhuhu Local Board welcomes the opportunity to make this submission to the Ministerial Forum on Alcohol Advertising and Sponsorship. We would be pleased to take up any further opportunity to speak to the Forum.



For and on behalf of the Māngere-Ōtāhuhu Local Board

Lydia Sosene
Chair
Māngere-Ōtāhuhu Local Board