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**IMPACT ASSESSMENT ON THE EFFECTIVENESS OF THE LIQUOR  
ACT 59 OF 2003**

**Final report**

**July 2013**

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## Executive summary

The liquor sector represents a complex regulatory challenge, as it generates both social and economic costs and benefits. While it is important to maximise the job creation and income generation of the industry, policy must also take cognisance of the potential costs of alcohol abuse and over-consumption.

A key piece of legislation governing the sector was passed in 2003, namely the Liquor Act. The process of designing good regulatory frameworks is typically at least partially iterative in nature, and thus it is necessary to periodically review whether a given regulatory initiative has in fact had the intended impact. This report comprises such a review of the 2003 legislation.

The policy process which culminated in the issuance of the 2003 Act began with the production of a liquor policy document by the post-Apartheid Government (the dti) in 1997. Within this document a number of liquor policy objectives were set out, with the ultimate goals of restructuring the liquor industry to promote wider participation and encourage transformation, while also addressing and reducing the socio-economic costs of alcohol abuse in South African society. However, the final National Liquor Act of 2003 represents a “watered-down” version of South Africa’s original policy on liquor. A constitutional court ruling prevented national government from taking jurisdiction over retail regulation, and a number of key policy proposals were omitted or changed in the final Act, including:

- A planned prohibition of cross-holdings allowing vertical integration was not included in the final Act, and the evidence suggests that this has contributed to current barriers to entry in production and distribution markets in particular
- The liquor policy proposed a specific levy (under a “polluter-pays” principle) on the manufacturing and importation of liquor to be channelled towards anti-abuse initiatives, but this was not included in the final Act, being replaced by a requirement for licensed entities to contribute an unspecified amount to anti-abuse initiatives
- The policy proposed the formation of a National Liquor Advisory Committee comprising of members from government, the liquor industry, civil society organisations and other relevant stakeholders. However, the final Act only required the establishment of a National Liquor Policy Council consisting of representatives from National and Provincial government.

A key concern of the 1997 policy was the reduction of harms associated with alcohol abuse. According to the World Health Organisation, South Africa has one of the riskiest drinking patterns in the world, comparable to the drinking patterns of Russia, Ukraine and Mexico. To this end, it is

critical that South Africa be successful in changing the pattern of drinking among consumers. Unfortunately, a 2009 study of the drinking patterns of South African consumers over the last 12 years concludes that the prevalence of abuse has remained unchanged over the period.<sup>1</sup> This suggests that the harms associated with alcohol abuse have on average not decreased in South Africa, in the period since the implementation of the current legislation.

Anti-abuse initiatives are currently undertaken by both government and the private sector. However, the implementation of these programs is problematic. In the case of government, there have been delays and coordination problems in implementing a National Drug Master Plan, both at the level of the Central Drug Authority and at the level of implementing Departments. Private sector anti-abuse programs have been found to be inappropriately targeted and insufficiently evidence based, and the legislation provides too little guidance to the private sector as regards how to improve the quality of expenditures in this area.

Problems are compounded by insufficient regulatory enforcement capacity, at both national and provincial level. Much could be done to improve current regulatory outcomes by ensuring that national and provincial alcohol authorities are better capacitated to undertake their regulatory tasks. Both in terms of absolute staff numbers, and arguably in terms of the mix of skills required to adequately assess license conditions such as anti-abuse provisions, institutions such as the NLA remain under-capacitated.

Jurisdictional complexity at national and provincial level, and the sometimes stark differences in provincial regulatory systems, makes effective monitoring and enforcement of liquor regulation difficult. This is compounded by a lack of effective collaboration between different authorities, again at both national and provincial levels. The Constitutional requirement for liquor retailing to be regulated at provincial level has both fragmented and delayed the implementation of regulatory reform in the sector.

The level of competition in the sector remains a concern. In fact, South Africa's liquor manufacturing industry has seen consolidation in recent years, which is largely in line with international trends in liquor manufacturing. Vertical integration between liquor production, distribution and retailing is

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<sup>1</sup>Peltzer, Davids and Njuho (2011)

highly prevalent, and the dominance of SAB in the beer production and distribution markets has had negative implications for the potential entry of competitors in both production and distribution levels of the market. If the original intent of the 1997 policy in terms of vertical integration had in fact been carried out in the 2003 legislation, it is likely that some of these competitive restrictions would have been avoided.<sup>2</sup> In contrast, the retail industry is largely competitive, and has seen a substantial increase in the number of licensees.

While competition in the retail sector is not of concern, it remains problematic from the point of view of preventing alcohol abuse. A large proportion of liquor consumption, and thus also of alcohol abuse, occurs in unlicensed outlets. If the social harms associated with such consumption are to be better addressed, what is needed is a “widening of the net” to include informal retailers in the regulatory landscape. Informal retailers also provide a significant potential avenue for providing greater transformation in the overall liquor value chain.

The liquor sector plays a vibrant role in the economic and social spheres of South African life, but simultaneously contributes much more than it should to variety of social problems. The regulatory framework governing the sector could benefit from both the provisions of more regulatory resources, and from regulatory reform, in order to meet these objectives. A number of recommendations for the sector are thus now provided.

### ***Achieving an improvement in regulatory implementation***

Much of the success of a given regulatory regime is determined by how well it is implemented. Implementation success in turn depends both on whether regulation has been designed to be as easy as possible to implement, and on whether the regulator has sufficient capacity to undertake its regulatory responsibilities.

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<sup>2</sup> It should be noted that discussions with the Competition Commission suggest that, to some extent, imposing restrictions on vertical integration at this point may be a case of shutting the stable door once the horse has already bolted. In other words, vertical integration can be used to foreclose competitors in markets in which there is some real contestation for clients, but when substantial market dominance has already been achieved by the incumbent operator, vertical integration becomes only one of a number of techniques the incumbent can use to foreclose competition. Simply restricting vertical integration at that point may then be insufficient to remedy the problems in the market. Given these concerns, no firm recommendation to re-impose the restriction on vertical integration is made by this report.

It is clear that the National Liquor Authority does not have sufficient capacity at present to implement its mandate fully. Its staff complement is stretched by license issuing requirements, and its inspections capacity is very low. It may also lack skills to adequately oversee the anti-abuse commitments of licensees, and its ability to participate meaningfully in sector coordination activities appears to have been compromised by a lack of capacity, which is highly problematic given the prevalence of shared jurisdictional issues in the liquor sector.

It may be possible to reduce the implementation burden on the NLA by simplifying the regulations which it is required to implement. For example, the desirability of requiring a large company such as SAB to have a separate license for each depot and distribution centre may need to be questioned. While it is desirable to have a clear indication of the premises and areas in which a company operates, this can sufficiently be captured under a single licence, without the need for the separate licensing of each premise, which creates an additional administrative burden for the registering authority. This is especially true of the manufacturing and distribution sectors, which are licensed only to sell to other licensed distributors and / or retailers and do not sell directly to consumers. A single licensing system for each business (which is updated to reflect each of the operating premises) rather than licensing per premise may be administratively less burdensome but achieve the same regulatory outcomes. Clearer requirements for anti-abuse programs could also simplify the process of deciding on whether they are adequate.

**However, while there are aspects of regulation that may be simplified, the most pressing issue is that more resources are needed, particularly in terms of enforcement and monitoring capacity, and in order to formalise regulatory monitoring and evaluation systems.** Regulatory credibility can be substantially improved by ensuring that the regulator is able to act as a primary data source for the sector, which requires that data on licensee performance be collected and distributed accurately and effectively in areas such as enforcement, licensing, production volumes, and the efficacy of anti-abuse programs.

### ***Improved regulatory collaboration***

The effective regulation of the liquor sector requires that a large number of provincial and national bodies (including the NLA, Municipalities, DAFF, SARS, and SAPS) work together as seamlessly as possible, to coordinate policy responses, share data, and ensure the success of regulatory enforcement activities. Ideally, the first step of dealing with areas of shared jurisdiction is the undertaking of careful regulatory design, to reduce such overlap as may exist. Once legislation is

established, however, it is also necessary to have in place mechanisms to deal with potential conflicts.

To this end, it is often useful to include a legal requirement on regulators to conclude memorandums of understanding (MOUs)<sup>3</sup> with other bodies with which they are found to share jurisdiction. An MOU framework in the liquor environment, for example, could set out a shared understanding of when provincial regulators should liaise with SAPS before implementing new regulations, to ascertain whether implementation difficulties are envisaged; or to conduct discussions at national and provincial level as to whether the definition of liquor should be standardised to close regulatory loopholes. MOUs can be a useful means of clarifying and formalising relationships between such entities, and it is not clear that their potential is being fully exploited in the sector.

### ***Standardise key aspects of regulation***

As the regulation of liquor retail is retained as a provincial competency, some variation across provincial and national regulatory schemes is inevitable. However, while such variation is desirable if it allows for innovative regulatory approaches, or allows specific provincial circumstances to be addressed, it does tend to complicate the enforcement environment, and thus is not desirable in and of itself. In other words, in an ideal world there would be considerable similarities between the various provincial legislations, and such disparities as occurred would be based on a clearly articulated policy rationale.

As discussed above, the potential use of MOUs as a regulatory coordination mechanism in the sector should receive more attention. A strengthening of policy development processes in the sector would also be of use. Institutions such as the NLA should have robust policy debates with provinces during their legislative design processes, to try and ensure that the practical implications of regulatory innovations have been properly teased out. Regulatory impact assessment exercises would be ideal as a mechanism to carry out such evaluations.

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<sup>3</sup> MOUs are typically not binding, and simply lay out a shared understanding between parties. An alternative mechanism would be the use of memorandums of agreement (MOAs), which can be made binding. Where the ultimate burden in terms of establishing jurisdiction lies in legislation, however, it is not clear that an MOA between regulators can fully resolve such jurisdictional issues as may arise.

Because retail regulatory is a provincial competency in terms of the Constitution, attempts to standardise provincial regulatory approaches must depend largely on provincial cooperation. However, much can certainly still be done at national level to ensure that provinces are required to raise the level of the policy debate, and to justify any non-standardised approach.

A key aspect of the regulation which may be standardised across provinces and nationally without hampering on policy innovation is the definition of alcohol. The standardisation of the way in which alcohol is defined will ensure easier regulatory oversight and reduce any potential loopholes for the production of illicit and dangerous liquor.

### ***Industry anti-abuse programs***

The anti-abuse provisions in the 2003 Act rely heavily on the implementation of anti-abuse programs by manufacturing and distribution licensees. However, the Act and its regulations provide little to no guidance on how the NLA is to assess whether the proposed interventions are sufficient to meet with licensing requirements, and too little is at present done to ensure that such programs are appropriately designed to proportionately address the burden of disease, in an evidence-base fashion.

More oversight is needed in this key area. At a minimum, the requirements on industry to undertake some minimum level of expenditure need to be more clearly laid out, and a means needs to be provided of ensuring that industry programs are appropriately designed and targeted – for example, by requiring that program approval be awarded by a team of independent public health specialists. It may also be worth evaluating whether the responsibility for implementing anti-abuse programs should be removed from industry, and delegated to an industry-funded but industry-independent agency.

This agency may be housed within either the CDA or NLA, or an independent institution may be created consisting of representation from health experts, civil society and government. An independent institution has a number of merits, including giving a platform to CSOs and ensuring a separation of policy development for (and regulation of) the liquor sector from the implementation of health-based interventions. The exact funding requirements for such an institution would require careful study of the necessary evidence-based interventions, and administrative requirements, and would need to ensure a balancing of the cost to industry against the greater health and welfare objectives of any such agency.

### ***Advertising restrictions***

The issue of liquor advertising has become increasingly pertinent, with calls for the banning of liquor advertising in order to reduce liquor abuse and consumption levels. The 1998 liquor policy paper highlighted the need to reduce liquor advertising as part of a holistic approach to reducing liquor abuse, while also ensuring that advertising identifies the harmful effects of liquor. The 2003 Act, however, refers only to the need to ensure that liquor is not advertised in a false or misleading manner and does not target minors. The international review of liquor regulations reveals that very few countries have outright bans on liquor advertising. Conversely a number of countries have legal restrictions of varying degrees on the type and medium of advertising allowed, particularly pertaining to the targeting of minors. Given that research suggests little consensus on the link between levels of consumption and advertising, a ban on advertising may be more costly than any benefits accruing from reduced consumption leading to lower levels of abuse.

### ***Encourage inclusion of informal retail sector***

The environment in which liquor is consumed plays a big role in the extent of damage caused by alcohol abuse. Issues such as managing over-crowding, ensuring access to ablution facilities and refusing to serve the over-intoxicated have a measurable impact on alcohol abuse outcomes, but can only be dealt with if on-consumption retailers are licensed and properly monitored.

The persistence of the fact that the bulk of South African liquor consumption happens in unlicensed outlets thus continues to be a major impediment to the reduction of alcohol abuse harms. Greater attention needs to be paid to this issue, both to improve access to licensing for shebeeners (for example, by providing licensing support services, or simplifying licensing requirements if possible), and by focusing on areas where regulatory problems in supporting systems (for example, commercial zoning problems in township areas, or the quality and integrity of SAPS staff) are affecting the ability to include shebeeners in the regulatory system.

These issues will take considerable time and effort to deal with, as they have resulted from more than a century of colonial and apartheid systems designed to frustrate formal licensing of liquor outlets in much of the country. No single regulatory initiative is likely to solve the problem. However, resources must continue to be devoted to this area, as the size of the problem means it cannot be ignored. Specific areas where further attention is needed include the process of establishing commercial zoning in township areas (which will then allow licensed outlets to be segregated from residential areas); and an investigation of whether licensing requirements can be usefully simplified

to improve the ease of obtaining a license, without compromising on public health and safety considerations.

Changing the culture of hazardous drinking requires both increasing the safety of drinking outlets in townships, and decreasing the willingness of customers to tolerate unsafe outlets. It is critical that licensed outlets consistently provide a safer drinking environment than unlicensed outlets, in order to increase the desirability of obtaining a license, and provide consumers with real choice in terms of the safety of their drinking environment. Achieving this goal requires adequate monitoring and enforcement of license conditions, including prohibitions on serving minors, for example, and requirements to maintain adequate toilet facilities. Attention therefore needs to be paid to the monitoring and enforcement environment, including training for licensees and police officers, and possibly educational campaigns for customers as regards their rights.

## 1. Introduction

The liquor sector represents a complex regulatory challenge, as it generates both social and economic costs and benefits. While it is important to maximise the job creation and income generation of the industry, policy must also take cognisance of the potential costs of alcohol abuse and over-consumption.

A key piece of legislation governing the sector was passed in 2003, namely the Liquor Act. The process of designing good regulatory frameworks is typically at least partially iterative in nature, and thus it is necessary to periodically review whether a given regulatory initiative has in fact had the intended impact. This report comprises such a review of the 2003 legislation.

The framework against which the legislation will be assessed will include both the objectives which it was initially designed to achieve, and the policy priorities which have become apparent in the sector in the years since the Act was passed. Section 2 of the report begins with an overview of South Africa's current liquor regulation environment, in order to frame the current regulatory structure and the assessment thereof. Some perspective on the South African regulatory structure is then provided by an international review of regulatory practices in alcohol, summarised in Section 3 (with a more detailed analysis appended to the report). Section 4 provides an overview of liquor consumption patterns in South Africa, and Section 5 reviews the socioeconomic harms associated with alcohol abuse. Together, these consumption and abuse patterns are at least partially influenced by the chosen regulatory framework and the quality of its implementation, and thus provides insight into the success of that regulatory framework to date. Section 6 examines current interventions to combat liquor abuse in the domestic market, by government and industry, and Section 7 provides a review of the performance of regulatory bodies and structures in the sector to date.

Sections 8 and 9 differ somewhat in providing an overview of the productive structure of the liquor industry, focusing respectively on an examination of levels of competition and industry concentration in liquor (which was historically a key focus of the policy underlying the 2003 Act), and the size and characteristics of the informal liquor market. Section 10 concludes and makes recommendations for potential avenues for regulatory reform.

## 2. An overview of South Africa's current liquor legislation

### 2.1 South Africa's liquor policy evolution

The policy process which culminated in the issuance of the 2003 Act began with the production of a liquor policy document by the post-Apartheid Government (the dti) in 1997. Within this document a number of liquor policy objectives were set out, with the ultimate goals of restructuring the liquor industry to promote wider participation and encourage transformation, while also addressing and reducing the socio-economic costs of alcohol abuse in South African society.

The policy document (and subsequent liquor bill) envisaged a simplification of the registration and licensing procedure, with a national licensing authority responsible for the licensing of manufacturers, distributors and retailers of liquor products, with an additional provision preventing vertical integration within the industry. The policy and regulatory framework from this document translated into the Liquor Bill of 1998. Given constitutional concerns on the overlap of jurisdictions between national and provincial government, the liquor bill was referred to the Constitutional Court by the then President of South Africa. The review found that National Government's claim to jurisdiction over retail licensing was unconstitutional, but that national government had justified its role in the licensing of manufacturers and distributors and the prohibition of cross-holdings between the three tiers in the liquor industry.<sup>4</sup>

The final National Liquor Act of 2003 represents a "watered-down" version of South Africa's original policy on liquor. In addition to the constitutional court ruling on the jurisdiction over retail regulation (with this aspect of regulation currently residing with provincial authorities), a number of key policy proposals were omitted or changed in the final Act, including:

- The prohibition of cross-holdings allowing vertical integration was not included in the final Act
- The liquor policy proposed a specific levy (under a "polluter-pays" principle) on the manufacturing and importation of liquor to be channelled towards anti-abuse initiatives, but this was not included in the final Act, being replaced by a requirement for licensed entities to contribute an unspecified amount to anti-abuse initiatives
- The policy proposed the formation of a National Liquor Advisory Committee comprising of members from government, the liquor industry, civil society organisations and other relevant stakeholders.

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<sup>4</sup> Constitutional Court (1999)

However, the final Act only required the establishment of a National Liquor Policy Council consisting of representatives from National and Provincial government.

These revisions and omissions have had an important bearing on the outcomes in the liquor industry, particularly pertaining to the level of competition and concentration within the manufacturing and distribution sector of the value chain and in terms of the anti-abuse initiatives implemented by both the liquor industry and government. The merits of omitting these policy proposals are therefore discussed throughout the remainder of the report.

The phased approach adopted by the National Liquor Act has resulted in a complex set of regulations pertaining to the manufacture, distribution and sale of liquor. It should be noted that, when evaluating whether the Act has met its original objectives, analysis is made more complex by the fact that supporting policy documents do not reflect the final stance taken by the legislation.

## **2.2 Policy collaboration**

Under the current approach, liquor policy development is effectively separated from both industry and civil society. Participation from stakeholders outside of government is often relegated to issues around enforcement and regulation, for example, through the recently established Liquor Industry Sectoral Task Group (which brings together industry stakeholders with government departments responsible for various aspects of regulation and enforcement). The National Liquor Regulators Forum, which advises the National Liquor Policy Council, consists only of representatives from the NLA and provincial liquor entities. Further, the National Liquor Policy Council consists only of representation from the dti and provincial MECs, with no representation from the range of other government stakeholders responsible for administering various aspects of legislation and policy that have a direct impact on the liquor sector and its outcomes.

A fragmented and non-transparent policy development process is unlikely to consistently yield good policy proposals. Good, effective policy needs to be practical to implement, and requires stakeholders to collaborate in implementation – neither of which is likely to occur if the private sector (which both has the best understanding of the practical issues in the sector, and is required to do the bulk of the implementation), is locked out of the policy development process. While it is essential that government retains control of the policy development process, this process should be undertaken in an environment of transparent public debate, with a commitment to making practical, least-cost, evidence-based interventions. In this manner the private sector's contribution to the policy debate can be incorporated in a manner which allows excessive lobbying for private interests to also be interrogated and weeded out.

At present, there is there is no regular co-ordinating government forum for liquor that includes departments like Health, Social Development, and even municipal representation. It can be administratively difficult to effectively co-ordinate a large number of such bodies, and elicit meaningful contributions from all parties on new initiatives. One of the advantages of holding such policy debates in a public forum is that all interested parties are then adequately notified of their opportunity to respond – but are not obliged to respond. This may help simplify the process of workshopping new policy proposals, and collecting responses from interested parties.

Much can be done to improve the quality and inclusiveness of policymaking by committing to formal policy making processes. In particular, policy needs to be made in an environment where policymakers have committed to public consultations, and have accepted the need to provide an evidence base to support their positions. At national level, a commitment has been made to implementing regulatory impact assessments (RIAs) on key pieces of legislation/policy. The RIA approach would be very useful in the liquor environment as well, as it incorporates a system of public consultation with a commitment to doing research as to the available regulatory options (in other words, to consult the evidence base), and the results of RIA processes are ideally publicly disseminated as well.

### **2.3 Regulation of manufacturers and distributors**

Following the adoption of the National Liquor Act in 2003, manufacturers and distributors are licensed and regulated by the National Liquor Authority (which was set up in 2004). Regulations pertaining to manufacturers and distributors were issued in 2004. These regulations detail the registration and licensing process for licensees and applicants and the fees applicable for licensing.

The regulations also set out the threshold volumes which separate manufacturers from micro-manufacturers, who are required to register with provincial authorities. Under the National Liquor Act Regulations (2004), a micro-manufacturer may not produce more than 100 million litres of beer, 50 million litres of Traditional African beer, 4 million litres of wine or 2 million litres of spirits (or any other type of liquor) annually.

### **2.4 Regulation of retailers**

Retailers are regulated by provincial authorities and where provinces are yet to implement provincial legislation, the Liquor Act of 1989 continues to apply. Currently, Gauteng, the Eastern Cape, Free State, Northern Cape and the Western Cape have enacted their own liquor acts. KwaZulu-Natal has enacted certain portions of its provincial Act, while Limpopo and Mpumalanga have approved their

provincial acts but are yet to fully enact them. The North West is expected to approve and implement its Act in 2014.<sup>5</sup> However, the national Liquor Act requires that provincial legislation is “consistent with the objects and purposes” of the national Act and must satisfy the Minister of Trade and Industry before the provincial Act can replace prior legislation (Liquor Act of 1989). While a number of provinces have enacted their own legislation, only liquor Acts in the Western Cape and Northern Cape effectively repeal the authority of the Liquor Act of 1989. This overlap in legislation adds to the complexity of provincial regulation.

In effect, therefore, the delegation of retail regulation to the provinces has delayed the implementation of regulatory reform in liquor retail, as envisaged in the original 1997 policy document, substantially. It should be noted that few provincial acts have specifically addressed the issue of informal liquor retailers, and indeed, the approach to retail regulation has been much more diverse than would have been the case had a national regulatory structure been implemented.

In addition to provincial regulation, municipalities are able to make inputs when consideration is given to the awarding of licences. Under the South African constitution, liquor licensing is a provincial competence, while trading regulations and controlling of liquor outlets is a local government competence. Thus municipalities are able to (and are effectively responsible for) implementing by-laws that determine trading days and hours for on- and off-consumption as well as determining any penalties for contravention of these by-laws. Further, municipalities have been encouraged to engage with provincial authorities on the liquor licensing process and determining policies and guidelines on acceptable locations for liquor outlets, given their mandate under the constitution.<sup>6</sup> Municipal bylaws and zoning will therefore also impact on the licensing, regulation and enforcement of liquor retailers.

## 2.5 Definition of liquor

Adding to the regulatory complexity is the multiple definitions of alcohol in South Africa’s liquor legislation. While there is some confluence in definitions between provinces, there are also substantial differences between the national definition of liquor products and the way in which

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<sup>5</sup> Cronje (2013)

<sup>6</sup> SALGA (2012)

some provinces have chosen to define liquor. The different definitions given by the various pieces of national and provincial legislation are provided in Table 1.

**Box 1 A regulatory gap regarding the production of "ales"**

Liquor industry stakeholders have noted a substantial increase in the production and availability of so-called "ales", which are especially prevalent in the Western Cape. Producers have taken advantage of a regulatory gap in the definition of liquor – where a definition of beer and ales is arguably not currently adequately defined in either the Liquor Products Act or the National Liquor Act. Manufacturers are therefore not required to comply to quality standards, submit their products to the Department of Agriculture, Forestry and Fisheries for testing or adhere to a regulated standard of packaging when producing these ales.

Producers of ales in the Western Cape typically use wine as the basis for the product, subsequently diluting the wine by adding water, flavourants and, often, industrial alcohol, resulting in larger quantities of the original product. The ales are then packaged in large-form plastic containers, with volumes as high as five litres, and distributed among the lower-end consumer market and through informal channels. These ales, with alcohol volumes ranging from 5% to 12%, are sold to consumers for as little as R5 / litre. This pricing suggests that ale producers are effectively avoiding excise payments, based on the volume of alcohol contained in these products, despite the fact that the wine purchased for production of ales is already excise-paid.

**Table 1 Definitions of liquor in South Africa**

Act	Definition of Liquor	Beer	Traditional / Sorghum beer
Liquor Products Act, 1989	"liquor product" means -(a) wine;(b) an alcoholic fruit beverage;(c) a spirit;(d) a grape-based liquor;(e) a spirit-based liquor;(f) a specially authorized liquor; and(g) any liquor other than a product mentioned in paragraph (a), (b), (c), (d), (e) or (f), in respect of which an import certificate has been issued;		
Liquor Act, 1989		"beer" means the drink manufactured by the fermentation of a mash of malt, with or without cereals, flavoured with hops, or ale, stout or any other drink manufactured as or sold under the name of beer, ale or stout, if it contains more than one per cent by volume of alcohol, but does not include sorghum beer	"sorghum beer" means -(a) the drink generally known as sorghum beer and commonly manufactured from grain sorghum, millet or other grain; or (b) any other fermented liquor declared to be sorghum beer under subsection (2) (c)
National Liquor Act, 2003	"liquor" means- (a) a liquor product, as defined in section 1 of the Liquor Products Act, 1989 (b) beer or traditional African beer; or (c) any other substance or drink declared to be liquor under section 42(2)(a)	"beer" includes- (a) ale, cider and stout; and (b) any other fermented drink, other than traditional African beer- (i) that is manufactured as, or sold under the name of, beer, ale, cider or stout, if it contains more than one per cent by volume of alcohol; or (ii) that is declared to be beer under section 42(2)(a)	"traditional African beer powder"- (a) has the meaning determined in terms of the Customs and Excise Act, 1964 (Act No. 91 of 1964), if any; or(b) in the absence of a meaning contemplated in paragraph (a), has the meaning set out in Schedule 1;
KZN	"liquor" means (a) a liquor product, as defined in section 1 of the Liquor Products Act, 1989 (Act No. 60 of 1989); (b) beer or traditional African beer; or (c) any other substance or drink declared to be liquor under the Liquor Act, 2003 Act No. 59 of 2003), but does not include methylated spirits;	"beer" includes (a) ale, cider and stout; and (b) any other fermented drink, other than traditional African beer(i) that is manufactured as, or sold under the name of, beer, ale, cider or stout, if it contains more than one percent by volume of alcohol; or (ii) that is declared to be beer under the Liquor Act, 2003 (Act No. 59 of 2003);	"traditional African beer" means a fermented liquid (a) made by(i) the fermentation of malt, unmalted grain or meal of the cereals sorghum, maize, finger millet or pearl millet, with no more than five per cent sugar by weight relative to the combined weight of all the malt, grain or cereal ingredients; or (ii) combining traditional African beer powder with water; (b) with no addition of ethyl alcohol; (c) with an alcohol content not exceeding 3,5 per cent by volume; (d) in a state of fermentation, or of which the fermentation has not been arrested; and (e) not containing or flavoured with hops or any product derived from hops;
Gauteng	"liquor" means a product of fermentation or distillation of grains, fruits or other agricultural products and includes synthetic ethyl alcohol and includes beer or sorghum beer, but does not include methylated spirit or medicine which is subject to registration by virtue of a resolution published in terms of section 14 (2) of the Medicines and Related Substances Control Act, 1965 (Act 101 of 1965);	"beer" means the drink manufactured by the fermentation of a mash of malt, with or without cereals, flavoured with hops, or ale, stout or any other drink manufactured as or sold under the name of beer, ale or stout, if it contains more than one per cent by volume of alcohol, but does not include sorghum beer;	"sorghum beer" means liquor generally known as sorghum beer and commonly manufactured from grain sorghum, millet or other grain;

Act	Definition of Liquor	Beer	Traditional / Sorghum beer
Eastern Cape	"liquor" means-(a) any liquor product as defined in section 1 of the Liquor Products Act, 1989;(b) any beer or sorghum beer; and(c) any other substance or drink declared to be liquor under subsection (2)(b);	"beer" means -(a) a drink manufactured by the fermentation of a mash of malt, with or without cereals and flavored with hops;(b) ale or stout; or(c) any substance or other fermented drink;(d) manufactured as or sold under the name of beer, ale or stout; or(e) declared to be beer under subsection (2)(a),	"sorghum beer" means-(a) the drink generally known as sorghum beer and commonly manufactured from grain sorghum, millet or other grain;(b) any other drink manufactured or sold under the name of sorghum beer; or(c) any other substance or fermented drink declared to be sorghum beer under subsection (2)(c);
Free State	"liquor" means - (a) a liquor product, as defined in section 1 of the Liquor Products Act, 1989 (Act No. 60 of 1989);(b) beer or traditional African beer; or(c) any other substance or drink declared to be liquor under section 42(2)(a) of the National Liquor Act;	"beer" includes - (a) ale, cider and stout; and(b) any other fermented drink, other than traditional African beer - (i) that is manufactured as, or sold under the name of, beer, ale, cider or stout, if it contains more than one per cent by volume of alcohol; or(ii) that is declared to be beer under section 42(2)(a) of the National Liquor Act;	"traditional African beer"(a) has the meaning determined in terms of the Customs and Excise Act, 1964 (Act No. 91 of 1964), if any; or(b) in the absence of a meaning contemplated in paragraph (a), has the meaning set out in Schedule 1 of the National Liquor Act;
Western Cape	"liquor" means any liquid or substance containing more than 1% of alcohol by volume or mass, but excluding—(a) methylated spirits;(b) medicine which is subject to registration in terms of the Medicines and Related Substances Act, 1965 (Act 101 of 1965); and(c) products which are not intended for human consumption;		
Northern Cape	"liquor" means any liquid or substance containing more than 1% of alcohol by volume or mass, but excluding—(a) methylated spirits;(b) medicine which is subject to registration in terms of the Medicines and Related Substances Act, 1965 (Act 101 of 1965); and(c) products which are not intended for human consumption;	"beer" includes - (a) ale, cider and stout; and(b) any other fermented drink, other than sorghum beer - (i) that is manufactured as or sold under the name of beer, ale, cider; or(ii) that is declared to be "beer" under section 42(2)(a) of the National Liquor Act	
Mpumalanga	"liquor" means - (a) any liquor product as defined in section 1 of the Liquor Products Act, 1989;(b) any beer or traditional African beer; or(c) any other substance or drink declared to be liquor in terms of section 42(2)(a)(i) of the National Act;	"beer" means - (a) a drink manufactured by the fermentation of a mash of malt, with or without cereals and flavoured with hops;(b) ale, cider or stout; or(c) any substance or other fermented drink - (i) manufactured as or sold under the name of beer, ale, cide or stout; or (ii) declared to be beer in terms of section 42(2)(a)(i) of the National Act, if it contains more than one per cent of volume by alcohol, but does not include traditional African beer;	"traditional African beer" means a fermented liquid - (a) made by - (i) the fermentation of malt, unmalted grain or meal of the cereals sorghum, maize, finger millet or pearl millet, with no more than five per cent sugar by weight relative to the combined weight of all the malt, grain or cereal ingredients; or(ii) combining traditional African beer powder with water;

Source: National and provincial legislation

### 3. Summary of international review

#### 3.1 Introduction

Different regulatory models provide guidance on how to design and implement regulatory architecture, and provide important insights into what has worked in other countries and the lessons South Africa can take from this. The goal of international comparison should however never be to find and transplant a regulatory model as is – regulation should always be tailor-made for local needs and conditions. This comparative analysis includes an overview of key aspects of the regulatory regime in the various countries including:

- Production and consumption levels in each country
- An overview of the country's legislative framework,
- Where applicable and (and where information was available) interventions made by stakeholders in combating alcohol abuse via evidence-based interventions

Countries were selected based on a methodology proposed by DNA Economics and in consultation with **the dti**. The final list of ten countries includes a mix of developed and developing countries:

- Australia
- Brazil
- Germany
- Kenya
- Mexico
- Sweden
- Thailand
- Turkey
- Ukraine
- Zambia

A summary of the key findings across the country reviews is provided. The full review of comparators is provided in Appendix 1.

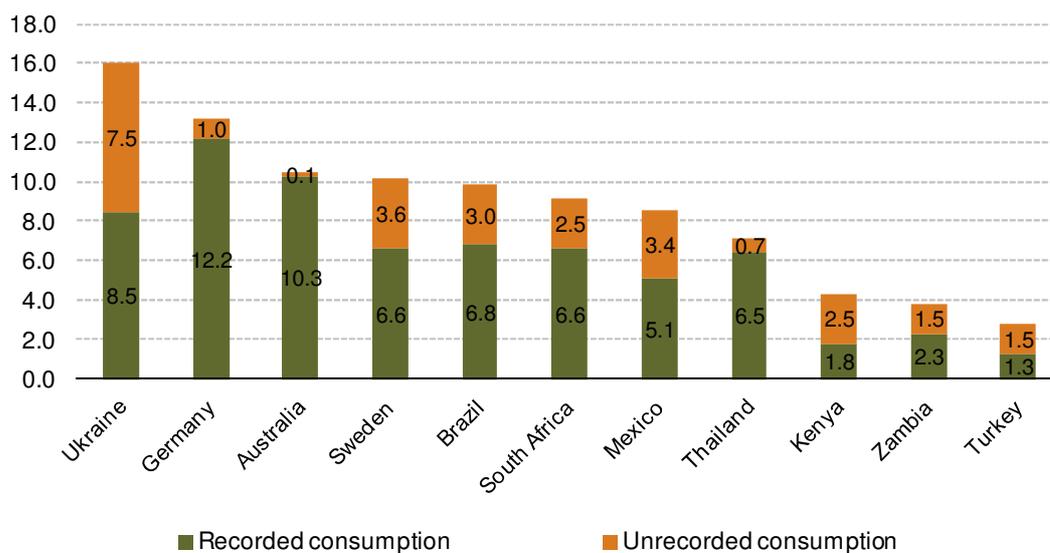
#### 3.2 Production and consumption

In most of the countries examined, the production of beer and spirits products is fairly highly concentrated. In the case of beer production, multinational conglomerates are typically responsible for the production of local beer brands and the distribution of imported brands, and consolidation

has thus been experienced on both a local and international level. A notable exception to this concentration is Germany, where mass-market beer is generally eschewed, resulting in a highly fragmented beer market. Levels of concentration in the spirits segments across countries appear to be more varied and fragmented, though for countries where “national drinks” are prominent levels of concentration in the spirits sector can be high. A number of the countries examined also have a history of statutory production monopolies in spirits, which have also tended to result in more concentrated markets. In general, wine appears to be the most fragmented of all liquor segments.

Of the countries included in the review, Ukraine has the highest total consumption (in absolute alcohol terms) of liquor, as well as the highest unrecorded levels of consumption<sup>7</sup>. There is no discernible correlation between “developing” country status and total levels of liquor consumption, with countries such as Germany and Australia ranking high in terms of total consumption. Turkey, a Muslim majority country, recorded the lowest total liquor consumption of all countries assessed.

**Figure 1 Recorded and unrecorded liquor consumption (in litres of absolute alcohol)**

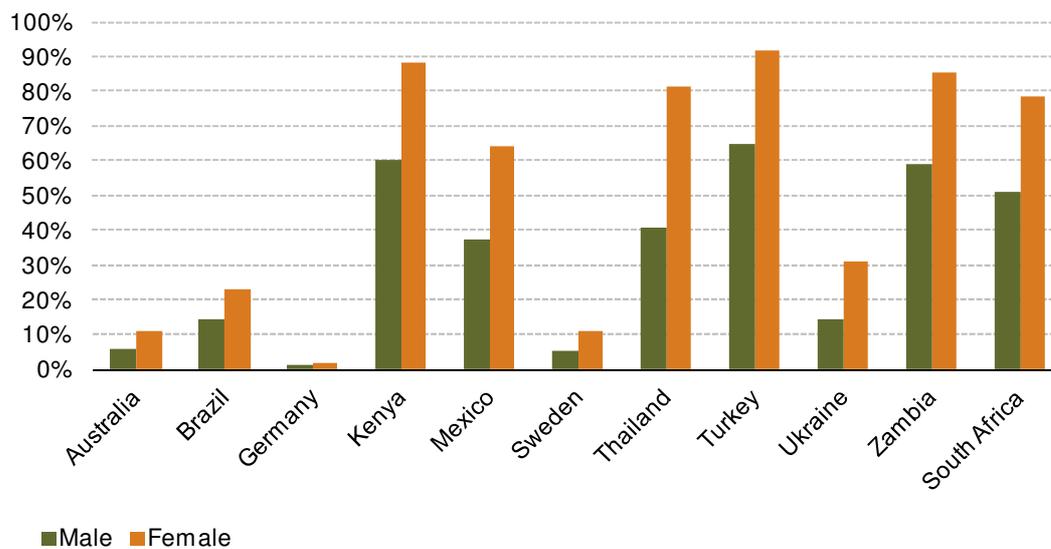


Source: DNA Economics based on WHO Global Information System on Alcohol and Health (GISAH) Database

<sup>7</sup> The World Health Organisation (WHO) (2011) defines unrecorded alcohol as alcohol that is not taxed and is outside the formal production, distribution and consumption channels. This includes homemade alcohol (legal or illegal), illegally produced and traded alcohol (such as smuggled liquor), alcohol produced for industrial use but consumed by the public and consumption of alcohol by tourists.

The level of abstinence from alcohol use also varies widely across the countries, as shown in Figure 2. Turkey has the highest level of abstainers, with over 60% of men and over 90% of women claiming to abstain from alcohol. Among the remaining comparators, African countries appear to have the highest rates of abstinence. These widely varying patterns of consumption to some extent reflect the role that drinking culture plays in drinking outcomes. Countries which are otherwise similar in socioeconomic characteristics vary widely in alcohol consumption outcomes, due to these differences in drinking culture.

**Figure 2 Abstainers, lifetime (%)**

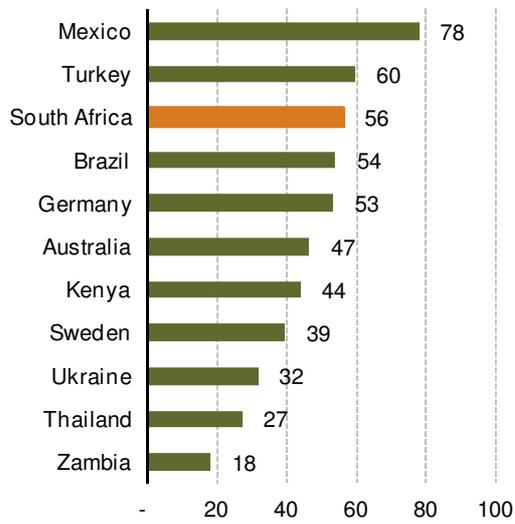


Source: DNA Economics based on WHO Global Information System on Alcohol and Health (GISAH) Database

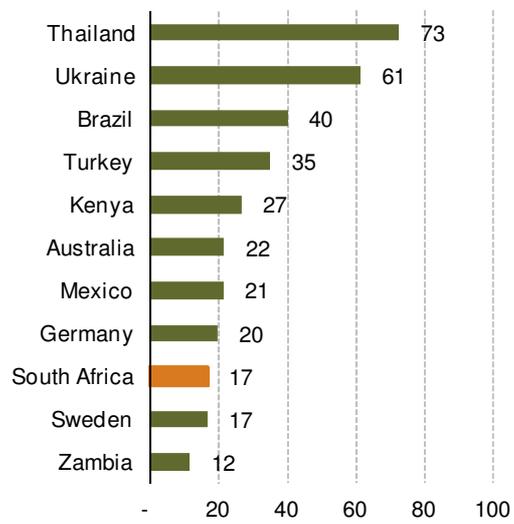
Beer (malt beer) is the most popular drink of choice across the majority of countries when measured in absolute alcohol terms, as shown in Figure 3. Exceptions to this are countries such as Thailand and the Ukraine, where white spirits are the main form of liquor consumed, Sweden, where consumers have a preference for wine, and Zambia, where opaque (traditional) beer is the most consumed type of liquor. Patterns of drinking data suggest that problematic drinking may be comparatively more prevalent in countries where consumption levels of spirits is high, such as the Ukraine and Brazil.

Figure 3 Consumption by type of alcohol (% of total absolute alcohol consumption)

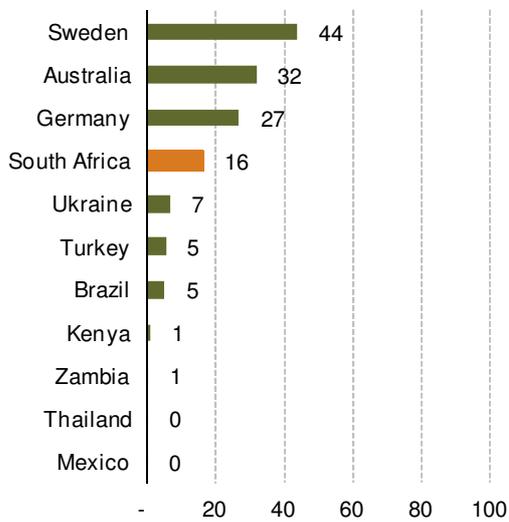
Beer



Spirits



Wine



Source: DNA Economics based on WHO Global Information System on Alcohol and Health (GISAH) Database

### 3.3 Legislative framework

Table 2 highlights the key aspects of the legislative framework across the selected countries. With the exception of Germany, most countries have a comprehensive system of regulation for the production and sale of liquor products. Drink driving limits vary between a zero tolerance approach (though the review suggests that few countries practically implement this) and a Blood Alcohol Content (BAC) limit of 0.1%.

**Table 2 Legislative overview of countries**

	Special licence required for production	Special licence required for retail sales (off- and on-consumption)	Legal BAC limits in place	Age restriction for sale of liquor to under-age drinkers	Legal restrictions on advertising
Australia	Yes, regulated at sub-national level	Yes	BAC level of 0.05%, zero tolerance for young and professional drivers	18	Yes, but largely voluntary/self-restricted
Brazil	No, though some requirements may pertain to the labelling of liquor products.	Varies by state / local government.	Zero tolerance translated into a 0.02% BAC level (0.2g / l) to account for measurement errors.	18	Minimal, focussed on television times
Germany	No	No special licence required.	BAC level of 0.05%.	16 for beer and wine, 18 for spirits.	Some restrictions on radio and television airing times.
Kenya	Yes, Excise License issued by the Commissioner of Domestic Taxes required	Yes	No	18	Yes, partial restrictions
Mexico	Not clear, though specific licence required for the production of Tequila.	Yes	Legislated and applied at State / Municipal level, BAC limits vary by state for those states where a BAC limit is in place.	18	Some restrictions on times of television adverts as well as proximity of marketing near schools etc.
South Africa	Yes	Yes, provincially regulated	BAC level of 0.05% (0.5g / l) and BAC level of 0.02% (0.2g / l) for professional drivers	18	No legal restrictions. Voluntary (self-regulating) restrictions in place.
Sweden	Yes	Monopoly of most liquor sales	BAC level of 0.02%	20 for off-premise (some permissible sales to age 18 and over). 18 for on-premise	Ban on most forms of advertising, and on spirits in print media.

	Special licence required for production	Special licence required for retail sales (off- and on-consumption)	Legal BAC limits in place	Age restriction for sale of liquor to under-age drinkers	Legal restrictions on advertising
Thailand	Yes, licence issued by National Excise Department	Yes	BAC limit of 0.05% (0.5g / l) with zero tolerance for certain driver categories including learner drivers, taxi, train and heavy truck drivers.	20	Restrictions on time of advertising for televised media, as well as restrictions on the type of advertising material.
Turkey	Yes	Yes, administered at both a national and local level.	BAC limit of 0.05% (0.5g / l).	18	Yes, partial ban on advertising through some media and strict regulations focused on both print and media advertising.
Ukraine	Yes	Yes	Zero tolerance approach, with a practical BAC limit of 0.02% (0.2g / l).	18	Yes, restrictions (and ban on outdoor advertising) mainly applicable to spirits and wine.
Zambia	Yes	Yes	BAC limit of 0.08% (0.8g / l)	18	No restrictions on advertising

Source: DNA Economics based on various sources.

While **most countries have either voluntary or legislated restrictions on advertising** (mainly relating to televised times of adverts and regulation aimed at ensuring that children are not targeted by advertising), few appear to have implemented an outright ban on liquor advertising and sponsorship. For almost all countries reviewed the **legal age at which one can purchase alcohol is eighteen years.**

#### **Box 2**The impact of advertising on liquor consumption

Few of the comparator countries have implemented an outright ban on liquor advertising, with many implementing a restricted approach to ensure that adolescent exposure to liquor advertising is limited. However, other international research looking at the relationship between alcohol and consumption has produced mixed results. Anderson et al's (2009) review of 13 longitudinal studies across the globe found that these studies almost always suggest that alcohol advertising is likely to increase drinking among adolescents. Saffer's (2002) earlier review of research suggests that advertising does increase consumption, but that a better public policy choice would be to engage in "counteradvertising" rather than imposing a partial or outright ban on liquor advertising.

Conversely early US studies such as Nelson (2003) and Nelson (2001), find that advertising bans have a limited effect on reducing alcohol consumption and abuse, particularly where the bans are partial (affecting a specific type of liquor). Reviews by Broadbent (2008), Nelson and Young (2008) and Nelson (2007) suggest that marketing has limited effects on alcohol consumption. Nelson's (2010) review of a similar set of longitudinal studies to those of Anderson et al (2009) suggests that the link between advertising and increased liquor consumption are often a result of a number of biases, and once these biases are accounted for the effect of advertising on liquor consumption is limited and modest. Smith and Foxcraft (2009), while highlighting a positive association between advertising and consumption in their systematic review of longitudinal studies, suggest that a number of these longitudinal studies are not rigorous enough to provide a definitive answer on whether advertising has a significant impact on liquor consumption, especially among adolescents.

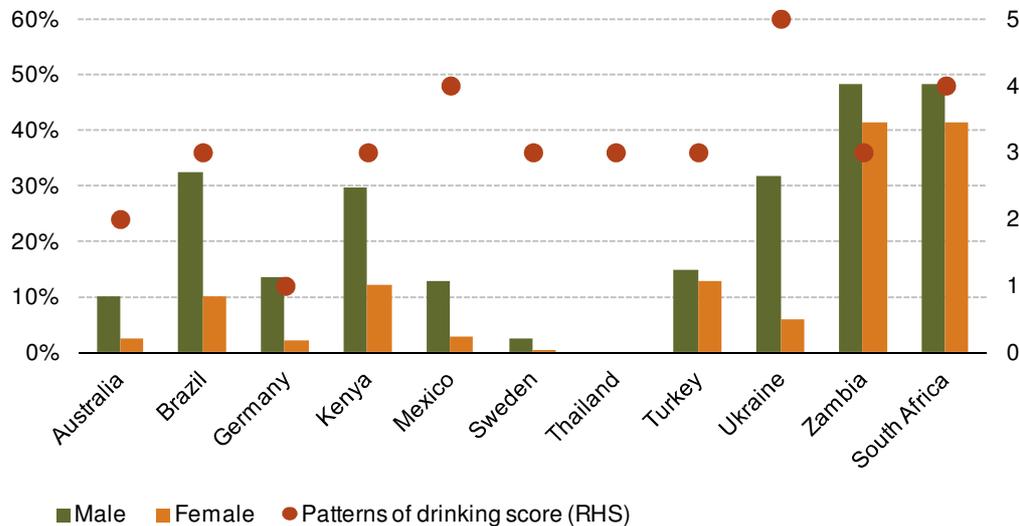
While a full review of the impact of advertising on liquor consumption is outside the scope of this study, existing international research suggests an overall inconclusive link between liquor advertising and increased consumption.

### **3.4 Levels of alcohol abuse**

Levels of alcohol abuse vary by country and are determined by numerous factors. The abuse of alcohol does not necessarily relate to levels of consumption (though this often plays a role) as shown by the case of Germany, where levels of consumption are comparatively high, but indicators of alcohol abuse (such as heavy episodic drinking) are relatively low (see Figure 4). In addition, of the countries assessed, Germany is the only country to score 1 (least risky) in the WHO's assessment of

the alcohol-attributable burden of disease, reflected by the patterns of drinking score.<sup>8</sup> It should be noted that **Germany has a substantial anti-alcohol abuse education program** in place.

**Figure 4: Heavy episodic drinking as a percentage of drinkers (%) and patterns of drinking score**



Source: DNA Economics based on WHO Global Information System on Alcohol and Health (GISAH) Database  
No data available for Thailand regarding heavy episodic drinking.

The main **policy tool used to combat alcohol abuse appears to be the use of excise duties to raise the overall price of liquor consumed**. However, countries such as Sweden have found their practical ability to control the supply of alcohol via high excise rates to be limited by the ability of consumers to purchase alcohol in lower tax markets, and high levels of informal alcohol production may also limit the usefulness of a high excise strategy. Conversely, increases in the price of liquor products, through raising excise revenues, can push poorer consumers (where alcohol demand is generally more price elastic) towards the consumption (and production) of illicit alcohol. Kenya presents an interesting example of a use of excise exemptions to try and reduce the consumption of illicit beverages (the Senator Keg experiment, with this experiment leading to significant increases in consumption levels of Senator Keg, such that authorities are considering the re-introduction of excise duties on this product). Some countries have diverted levies generated from alcohol sales to dedicated health platforms (such as Thailand), though it is not always clear if these programmes are aimed at targeted interventions or ensuring an overall reduction in liquor consumption.

<sup>8</sup> This reflects the alcohol-attributable burden of disease using a scale of 1 (least risky) to 5 (most risky) and is based on three dimensions: heavy drinking occasions, drinking with meals and drinking in public places.

### 3.5 Key findings

The South African regulatory and legislative framework regarding liquor appears to be no less stringent, and is in fact often more rigorous, when compared to the ten countries reviewed. The majority of these countries (with the clear exceptions of Germany and Brazil) have legislation in place regulating both the production and sale of liquor products, with this regulation often requiring special licences for the manufacture and retail of liquor. South Africa's legislation and regulation relating to drink-driving and underage consumption is similar to that of many of the comparator countries, and only two of the ten countries have a legal drinking age higher than South Africa.

Conversely, South Africa is one of the few countries reviewed with no legal restrictions relating to the advertising of liquor products. While only two countries (Sweden and Turkey) have enforced some kind of ban on liquor advertising, many of the remaining comparator countries have legal restrictions of varying degrees on the type of advertising allowed for the liquor sector. These restrictions often pertain mainly to ensuring that underage exposure to liquor advertisements is limited. Thus advertising regulations include, for example, restricting the time during which television adverts may be shown.

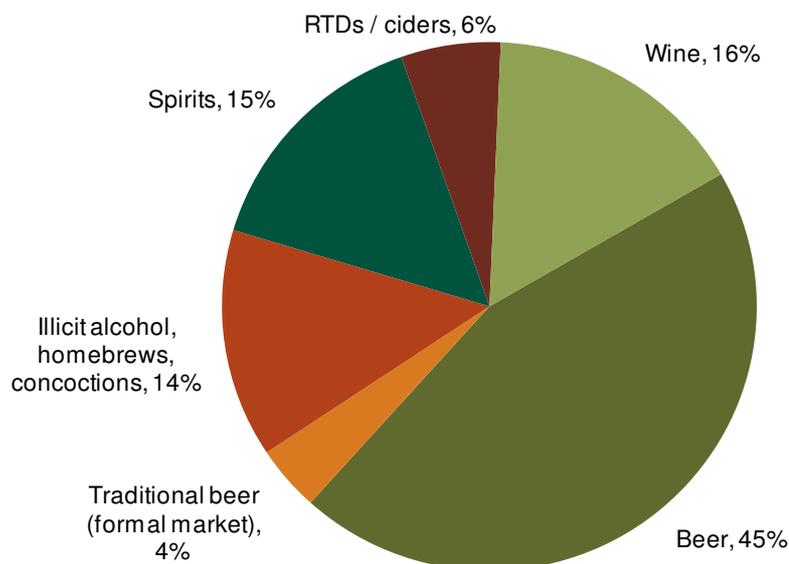
The international review also highlights the extent to which adequate enforcement of applicable regulations play a significant role in ensuring optimal regulatory outcomes, and the fact that poor enforcement of stringent regulations can lead to regulatory failure. This can be seen in Brazil, where the "zero tolerance" approach to drink-driving has had only limited success due to the various problems authorities have had in enforcing applicable legislation. In Thailand, a lack of enforcement has meant that the retailing of liquor by unlicensed entities appears to be prevalent despite strict regulations relating to the licensing of retailers. Similar examples of inadequate enforcement, despite a fairly stringent regulatory framework in place, can be seen in Zambia, Ukraine and Mexico. This is particularly applicable to South Africa, which has fairly stringent laws regulating the production, sale and consumption of liquor, but where enforcement of the various aspects of regulation is often sub-optimal.

## 4. Liquor consumption patterns in South Africa

South Africa is a nation of beer drinkers, with close to half of all alcohol consumed in the form of clear beer, as seen in Figure 5. Beer is estimated to account for 45% of absolute alcohol consumption, followed by wine (16%) and spirits (15%). Ready-to-Drinks (RTDs), made up of ciders, pre-mixed alcoholic drinks and other flavoured alcoholic beverages (FABs), account for approximately 6% of liquor consumed in South Africa, and traditional (sorghum) beer roughly 5%.

Truen et al (2011) estimate illicit alcohol (including home brews, traditional beer and illicit concoctions) to account for as much as 14% of absolute alcohol consumed in South Africa. Econex (2009) suggest that unrecorded sorghum beer consumption makes up close to a quarter of total liquor (nominal) volumes consumed in South Africa.

Figure 5 South African alcoholic beverage market by absolute alcohol, 2009/10



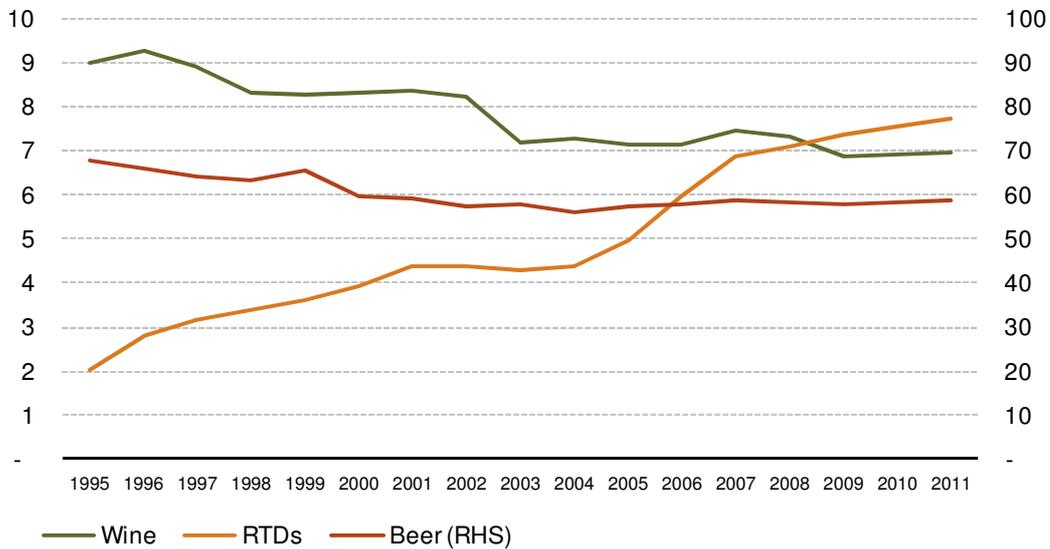
Source: DNA Economics based on Truen et al (2011)

### 4.1 Formal consumption trends

Per capita consumption of clear beer and wine has seen a slight downward trend over the last two decades, shown in Figure 6. Per capita wine consumption has declined from 9 litres to roughly 7 litres annually. Beer consumption, while still comparatively high, has seen a similar fall in consumption, from close to 70 litres per capita to less than 60 litres annually. By contrast, per capita consumption of RTDs has seen a substantial increase since 1995, rising from about 2 litres per annum, to close to 8 litres, with per capita consumption of RTDs now higher than wine in nominal

volume terms. The share of traditional African beer (sorghum beer) consumption (from formal producers) is estimated to have fallen significantly over the last decade.<sup>9</sup>

Figure 6: Annual per capita consumption of beer, wine and RTDs (litres)



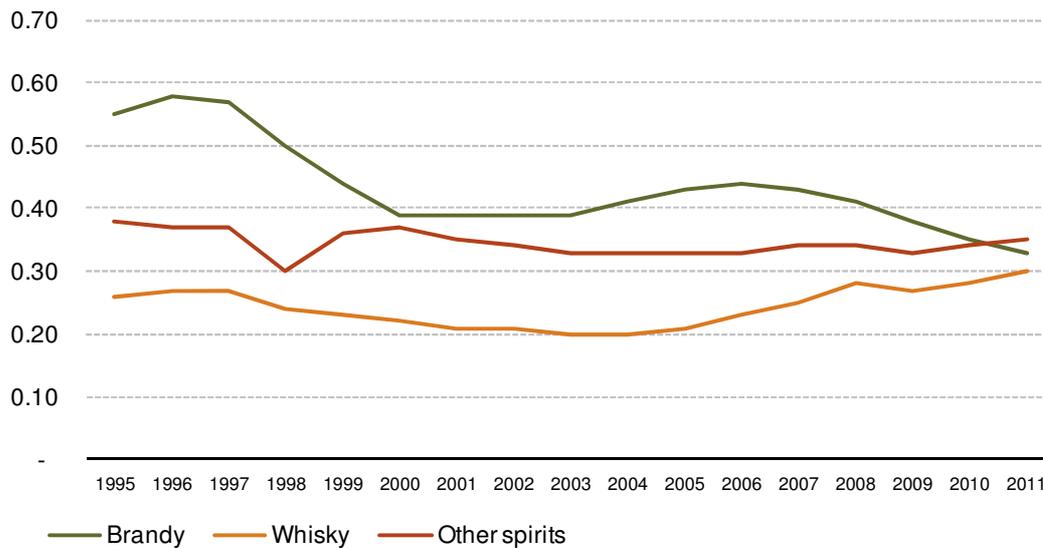
Source: DNA Economics based on SAWIS (2012)

The consumption of spirits has seen a mixed trend, with the likely substitution between different types of spirits resulting in a falling per capita consumption of brandy while the consumption of whiskey and other spirits has increased.

Overall per capita consumption appears to have stagnated over the last 4-5 years, with substitution between different liquor types prevalent, as different beverages increase in popularity. This, however, does not look at the extent to which consumption patterns of non-formal and illicit liquor products have changed, including products such as “ales” and concoctions.

<sup>9</sup> SAWIS (2011)

**Figure 7: Annual per capita consumption of spirits (litres of absolute alcohol)**



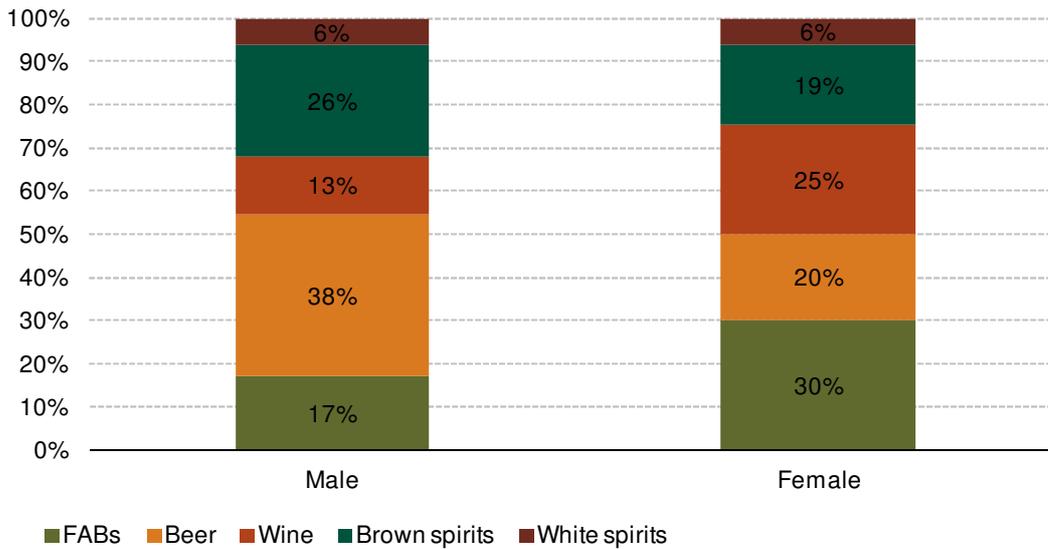
Source: DNA Economics based on SAWIS (2012)

## 4.2 Demographic preferences in formal liquor consumption

Data based on the All Media and Products Study (AMPS)<sup>10</sup> is provided in Figure 8, showing beverage preferences for male and female alcoholic beverage consumers. Females have a greater preference for FABs (flavoured beverages, cider and spirit coolers) and wine (bottled and boxed), while the data suggests that beer and spirits are the beverage of choice for male consumers.

<sup>10</sup> AMPS is a standardized single source survey conducted annually by the South African Audience Research Foundation (SAARF), with on average over 25,000 adults interviewed in both rural and urban areas.

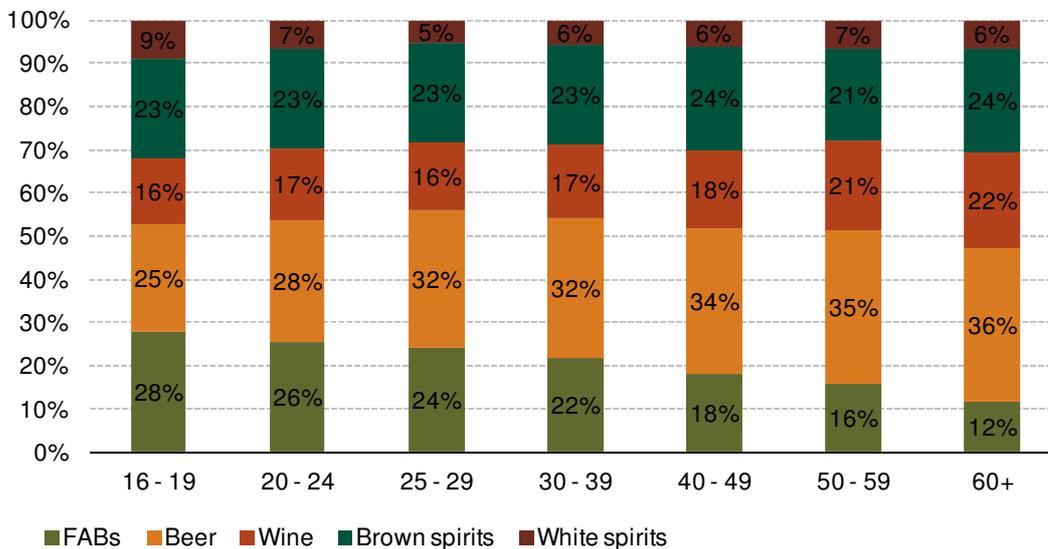
**Figure 8: Gender profile of alcoholic beverage consumers, 2012**



Source: DNA Economics based on Analytix Business Intelligence (2012)

Younger consumers appear to have a preference for FABs, with the preference for this type of alcoholic beverage falling as consumers get older. Conversely, there is a noticeable positive trend for beer, which increases in popularity as consumers age. The preference for white spirits is highest among young consumers, with 9% of consumers between 16 and 19 consuming white spirits.

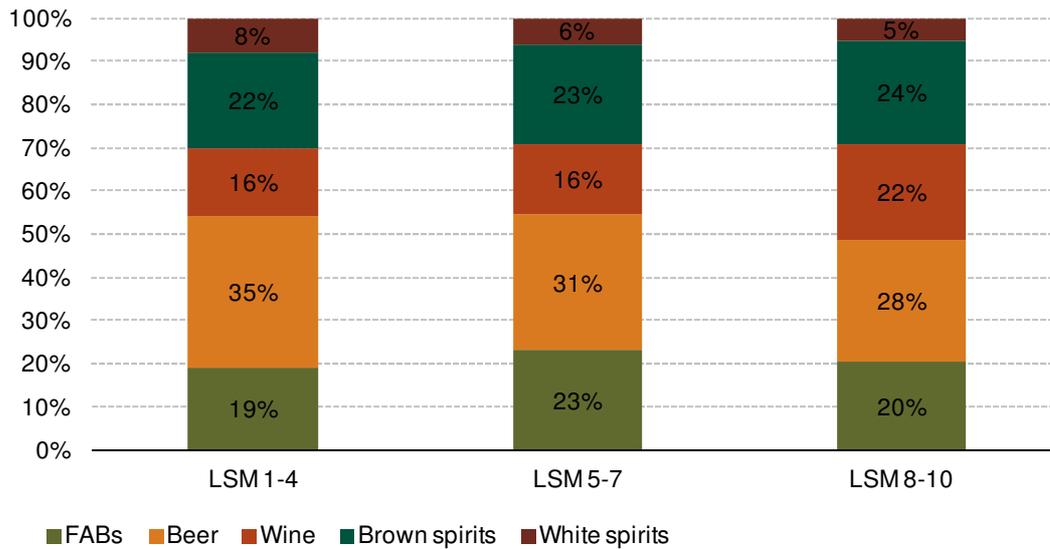
**Figure 9 Alcohol beverage preferences across age profiles, 2012**



Source: DNA Economics based on Analytix Business Intelligence (2012)

Figure 10 provides a measure of beverage preference by income levels, based on the LSM profile of consumers.<sup>11</sup> While beverage preferences across income profiles are fairly similar, it is likely that the brand “premium” increases as income levels rise. It is also noticeable that beverage preferences are more evenly distributed between FABs, beer, wine and brown spirits for higher income consumers (LSM 8 – 10).

Figure 10: Alcohol beverage preferences by LSM profile, 2012

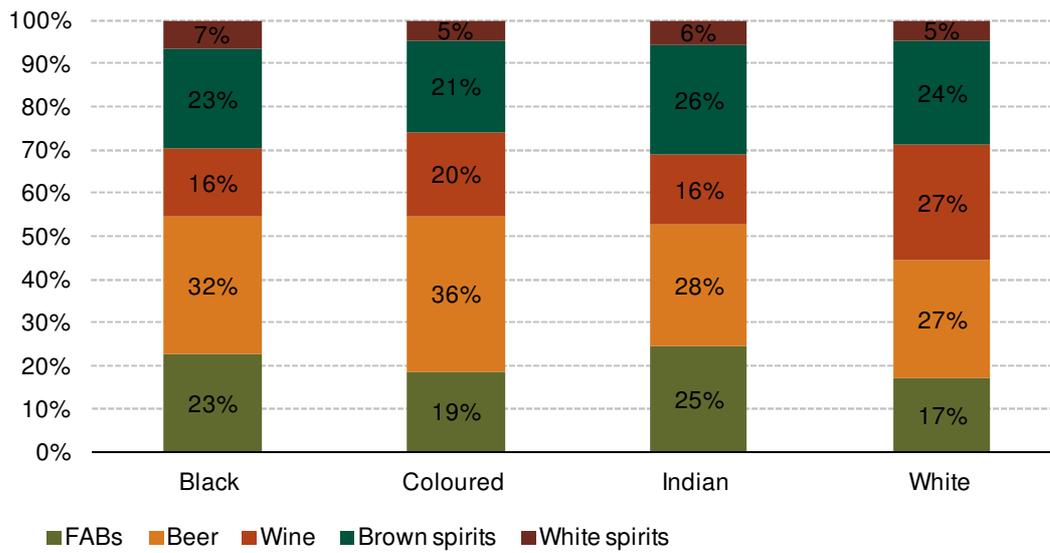


Source: DNA Economics based on Analytix Business Intelligence (2012)

Figure 11 shows the preference for beverages based on population group. Again, preferences are similar across population groups, though it is noticeable that the preference for wine appears to be strongest amongst White consumers. FABs seem to be most strongly preferred amongst Black and Indian consumers.

<sup>11</sup> The Living Standards Measure (LSM) was developed by the South African Audience Research Foundation (SAARF) and segments the market based on variables applicable to living standards such as urbanisation and ownership of possessions. LSM 10 represents the highest living standard and LSM 1 the lowest.

Figure 11 Alcohol beverage preferences by population group, 2012



Source: DNA Economics based on Analytix Business Intelligence (2012)

## 5. Socioeconomic harms associated with alcohol abuse

### 5.1 Introduction

The achievement of socio-economic goals is set out very clearly in the Alcohol Policy document of 1997 as a key objective. Even in isolation, alcohol abuse has many negative effects on society - adding the political history of South Africa, these negative effects are amplified. According to the policy document, “liquor was alternately made available and prohibited as a means of economic and social control”. It is therefore “an integral part of the history of segregation and apartheid”<sup>12</sup>. It is not surprising that socio-economic goals occupy a very pertinent position in the National Liquor Policy of 1997.

Chapter 3 of the policy document is dedicated to socio-economic objectives that government wishes to achieve through the policy. These objectives are not expressed in the form of goals, but rather problems that are especially prevalent in South Africa because of alcohol abuse. The policy document identifies the externalities that exist as a result of the presence of liquor in the market and proposes specific means of internalising these externalities. The policy document details the following negative externalities<sup>1</sup>:

- Public Health
  - Hospital admissions related to alcohol
  - Medical conditions associated with alcohol
  - Maternal alcohol consumption
- Social costs
  - Child abuse and other domestic violence
  - Crime
- Youth and woman
- Drunk driving and traffic accidents

The Liquor Policy document suggests a “polluter pays” approach to mitigating the effects of alcohol abuse on society. This merely implies that any industry player that draws profit from the production or sale of liquor should also be responsible for addressing the negative externalities that result from it. As a means of forcing the industry to do this, policy suggests a levy to be applied on the

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<sup>12</sup>Department of Trade and Industry (1997)

manufacturing and importation of liquor. This levy will then be directly channelled to low income communities in South Africa that are most harshly affected by the abuse of alcohol<sup>1</sup>.

The overarching objective of the liquor policy is to decrease the consumption levels of alcohol in South Africa and to encourage responsible drinking. This objective was intended to be carried out in the resulting liquor legislation, however, as will be seen, it was not. Integration between different departments and sectors as well as tiers of government would have been of paramount importance to the achievement of this objective. This integration was intended to be achieved through the establishment of a national authority that would bring together all the different stakeholders in the industry<sup>1</sup>.

Besides this overarching objective, some more specific interventions are mentioned in the policy. Firstly, **the need to educate consumers with regards to the harmful effects of alcohol abuse, by way of media, schools, public health facilities, community organisations, and so forth, is emphasized.** Education was also seen as necessary to enlighten the liquor industry regarding the responsibility they carry in the fight against the irresponsible use of alcohol<sup>13</sup>.

A particular concern of the policy was the “tot” system, which was prevalent in the apartheid era, and comprised a system whereby farmers would pay their labourers with wine in lieu of wages. This led to a host of social issues which is the reason why the President, in 1996, called for the system to be abolished once and for all. This system is specifically mentioned in the 1997 policy document, which reiterates the need to destroy the last remnants of its existence via what they call a “coherent inter-disciplinary approach” that would consider the complex nature of the problem<sup>2</sup>.

A third issue that **the policy focused on is rehabilitation, including not only rehabilitation of those addicted to alcohol, but also the victims of those that abuse alcohol.** This was projected to be achieved through extensive welfare programmes<sup>2</sup>.

The policy document was also specifically concerned with alcohol addiction problems amongst the youth. It **suggested two primary interventions needed in communities to address this issue, namely job creation and the provision of recreational facilities**<sup>2</sup>. Attention was also paid to the need to reduce road accidents that occur as a result of alcohol abuse, as well as ensuring that

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<sup>13</sup>Department of Trade and Industry (1997)

**alcohol advertising appropriately addressed the harmful effects of alcohol.** These constituted the last proposed interventions in the policy document<sup>2</sup>.

The Liquor Act no. 59 of 2003, which repeals the Liquor Act no. 27 of 1989, and was drafted as an outflow of the Liquor Policy, has much less focus on the socio-economic concerns in the liquor industry than envisaged in the policy document. Even though it mentions most of the issues mentioned in the policy document, such mentions are fleeting rather than providing specific strategies for addressing the problems raised.

The “tot system” is addressed directly in the Act, by outlawing any employer, regardless of agreement, to supply liquor to an employee in lieu of wages. In fact, an employer may not even deduct from an employee’s salary the amount owed to him by the employee for bought liquor. Evidence suggests that South Africa has been largely successful in the abolishment of the system, although this practice may remain in force in the informal shebeen sector (see section 10 for details). Advertising is also mentioned and it is made clear that the advertising of alcohol in a misleading manner or in manner that is intended to attract minors is illegal. Lastly, the sale of alcohol to minors is also outlawed which also addresses a socio-economic problem mentioned in the policy.

Other than the above three concerns, the rest of the issues mentioned in the policy document are, to a greater or lesser extent, to be addressed by the licensing agreements concluded with manufacturers and distributors. As a condition for being granted a manufacturing or distribution license, applicants have to submit a proposal regarding the applicant’s proposed contribution to combatting alcohol abuse<sup>14</sup>. This may or may not encapsulate education, rehabilitation, the youth and public road safety, but there is no specificity in the Act itself as to the type or rand value of this proposed contribution.

A discussion on each of the socio-economic issues mentioned in the Act and the policy will now follow. In addition to this, other issues will also be discussed that are not addressed that have been suggested to be problems in South Africa.

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<sup>14</sup>Government of South Africa (2003)

## 5.2 Public health

Four primary socio-economic externalities are mentioned in South Africa's liquor policy document. The first of which is public health, with good reason as alcohol abuse leads to a myriad of health problems and is the third largest contributor to death and disability after unsafe sex/sexually transmitted diseases and interpersonal violence<sup>15</sup>. It has been estimated that 25 – 30% of all general hospital admissions in South Africa are either directly or indirectly related to alcohol<sup>16</sup>. The conditions mentioned in the policy document are<sup>17</sup>:

- Liver cirrhosis
- Cancer
  - Tongue cancer
  - Mouth cancer
  - Throat cancer
  - Larynx cancer
  - Oesophagus cancer
  - Liver cancer
- Central Nervous System impairments
- Cardiovascular abnormalities
- Depression
- Tuberculosis
- Pneumonia
- Maternal alcohol abuse
  - Foetal Alcohol Syndrome
  - Low birth weight infants

Besides this long list of diseases, there are many more. In fact there are 30 diseases that include the term “alcohol” in the 10<sup>th</sup> addition of the WHO's International Classification of Diseases. This implies that alcohol was a necessary cause for every one of these conditions, as opposed to most of the conditions mentioned in the policy, for which alcohol is only a component cause (which means that alcohol is a merely a contributing factor to the progression and/or onset of the disease)<sup>18</sup>.

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<sup>15</sup> Norman et al. (2007)

<sup>16</sup> World Health Organisation (2004)

<sup>17</sup> Department of Trade and Industry (1997)

<sup>18</sup> Rehm (2011)

Table 3 below provides an overview of how the death rates from 10 of the diseases that are caused by alcohol have changed, over the six years from 2002 to 2008 during which the Act was implemented. Some of these diseases are specifically mentioned in the policy document while others are not, but are also known to be related to alcohol abuse (unfortunately, data was not available for all the diseases mentioned in the policy).

**Table 3: Estimated death per 100 000 population**

Disease	2002	2008	Increase/decrease
Liver Cirrhosis	6.6	2.2	-67%
Mouth and oropharynx Cancer	2.9	3.8	31%
Oesophagus Cancer	11.8	12.3	4%
Liver Cancer	4.9	4.4	-10%
Colon and Rectum Cancer*	5.4	5.4	0%
Breast Cancer*	6.9	8.6	25%
Hypertensive heart disease	19.3	18.5	-4%
Alcohol Use Disorder*	1.5	1.2	-20%
Tuberculosis	31.8	39.3	24%
HIV/AIDS*	794	529.5	-33%

*Source: World Health Organisation*

Table 3 shows that there were significant decreases in the death rates between 2002 and 2008 of liver disease, liver cancer, hypertensive heart disease, HIV/AIDS and most tellingly Alcohol Use Disorders. The death rates of mouth and oropharynx cancer, oesophagus cancer, breast cancer and tuberculosis had increased while colon and rectum cancer deaths remained constant.

As mentioned earlier, it is important to distinguish between diseases where alcohol is a component cause and diseases where alcohol is the necessary cause. Arguably, changes in the death rates of diseases in which alcohol is a component cause are less directly indicative of the level of alcohol abuse in a country, than are changes in the diseases where alcohol is the necessary cause. Of the 10 listed only “alcohol use disorders” fall into this category and the fact that the death rate in this category decreased by 20% between 2002 and 2008 does indicate that the Liquor Act of 2003 might have made a difference to the level of alcohol abuse in South African society. Caution should however be taken in interpreting these results, as death rates are also influenced by a number of other factors (for example, changing demographics), which may obscure the cause of a given change in the disease burden.

In the following sections the diseases for which studies have shown a causal link with alcohol abuse will be discussed. The death rates above, even if improved, shows that South Africa is battling with a society that drinks irresponsibly and the diseases discussed are all very prevalent in the country.

## **5.2.1 Alcohol and infectious diseases**

The causal link between alcohol use and infectious diseases is a relatively new addition to the research spectrum. It is emerging however as evidence of a direct and indirect causal link is quickly becoming more apparent.

### **5.2.1.1 Tuberculosis**

A review in 2009 of studies done on the causal link between tuberculosis and alcohol use showed that there was a strong possibility of a pathogenic impact of alcohol on the immune system which increases a heavy drinker's susceptibility to the disease. Alcohol could also have an effect on the infected individual's approach to treatment. By compromising treatment, the pharmacokinetics of the medicine can be altered, which severely diminishes its effectiveness. It is estimated that, at a 95% confidence level, a heavy drinker is nearly 3 times more likely to have TB as compared to a non-drinker<sup>19</sup>.

### **5.2.1.2 HIV/AIDS**

HIV/AIDS is not in the policy document. One of the reasons why alcohol abuse is unhealthy is the detrimental effect that it has on the human immune system. Excessive alcohol consumption can therefore cause susceptibility to infectious diseases such as pneumonia and tuberculosis and even though alcohol cannot do this with regards to HIV/AIDS, it can affect the progression of the disease by weakening the immune system<sup>7</sup>. There are also some studies that suggest that alcohol consumption can lead to having unsafe sex which leads to increased HIV/AIDS transmission. However, results are still somewhat ambiguous<sup>7</sup>.

Researchers have in recent times improved their understanding of the causal link between HIV/AIDS and alcohol consumption. What started out as descriptions extrapolated from the significant correlation between alcohol use and risky sexual behaviour<sup>20</sup> has evolved into systematic reviews and meta-analyses that describe the higher incidence of HIV amongst abusers of alcohol<sup>21</sup>. Even though this association exists, it is still possible that the relationship is caused by some third factor

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<sup>19</sup> Rehm et al. (2009c)

<sup>20</sup> Morojele et al. (2004)

<sup>21</sup> Fisher, Bang and Kapiga (2007)

that increases the likelihood of both, such as a certain personality trait<sup>22</sup>. Therefore, as already iterated, there is still ambiguity with regards to alcohol increasing susceptibility to HIV, however, the fact that alcohol speeds up the progression of the disease is clear<sup>13</sup>. In a country such as South Africa, where HIV incidence is the 4<sup>th</sup> highest in the world<sup>23</sup>, this is enough reason to be concerned.

### ***5.2.1.3 Lower respiratory tract infections (Pneumonia)***

The community pathways for the acquisition of TB and pneumonia are practically the same. This means the factors in communities that can increase the incidence of TB can also increase the incidence of pneumonia. Biologically, it has been established that alcohol has a devastating effect on the immune system. This increases the likelihood of an individual contracting an infectious disease and the further negative effect of alcohol on the respiratory system seriously puts the heavy drinker at risk of pneumonia<sup>24</sup>.

## **5.2.2 Non-communicable diseases**

### ***5.2.2.1 Neuropsychiatric conditions***

Alcohol abuse can lead to many health, legal and social problems. Individuals are often predisposed to substance addiction and the effect alcohol has on one's nervous system often leads to depression<sup>25</sup>. The health, legal and social problems associated with chronic alcohol abuse are very capable of exacerbating this depression and the strong relationship between alcohol use and interpersonal violence, injury and death can put a lot of pressure on the individual's mental and emotional status<sup>26</sup>. In South Africa, 11.4% of adults were found to be affected by an alcohol abuse disorder, which was the most prevalent common lifetime mental disorder, with 2.6% being completely dependent on alcohol.

### ***5.2.2.2 Cardiovascular diseases***

Table 3 shows the estimated mortality rates for hypertensive heart disease. Studies indicate however that ischaemic heart disease and strokes are associated with alcohol consumption. The

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<sup>22</sup> Parry et al. (2010)

<sup>23</sup> CIA world factbook (2009)

<sup>24</sup> Rehm et al. (2009)

<sup>25</sup> Petrakis, Gonzales, Rosenheck and Krystal (2002)

<sup>26</sup> Obot (2006)

relationship between hypertensive heart disease and alcohol consumption is not straight-forward. Among men, the causal link is well documented; however it is much less evident in women. This may be due to the smaller samples used for testing female groups, as there are generally fewer women that engage in binge drinking<sup>15</sup>.

When testing for the relationship between ischaemic heart disease and alcohol consumption, the results are similarly ambiguous, but for different reasons. It has been found that there is a significant positive relationship between alcohol consumption and the incidence of this heart disease. However at lower levels, the relationship becomes negative which means that moderate drinking might be instrumental in combatting ischaemic heart disease<sup>15</sup>. Studying the relationship between strokes and alcohol consumption yields the same result. Strokes might therefore be prevented by moderate alcohol consumption and caused by the abuse of alcohol<sup>27</sup>. The theory is, for both these heart conditions, that the negative psychological effects caused by the abuse of alcohol and the positive psychological effects caused by moderate consumption may be respectively causing and preventing these heart conditions<sup>28</sup>.

### **5.2.2.3 Cancers**

The International Agency for Research on Cancer has stated that there is substantial evidence of the carcinogenicity (cancer causing characteristic) of alcohol. They had established a causal link between alcohol consumption and cancer of the mouth, pharynx, larynx, oesophagus, liver, colorectum and female breast<sup>29</sup>. This is why breast, colon and rectum cancer have been added to the list of diseases of concern. The molecular and biomechanical mechanism through which chronic alcohol consumption causes cancer is not yet fully understood<sup>30</sup>. However, as the evolution in human genetics research progresses, the possibility of a better understanding increases daily.

### **5.2.2.4 Liver Cirrhosis**

The relationship between liver cirrhosis and alcohol consumption is strictly positive with no evidence contradicting the fact that heavy alcohol consumption assists the progression of existing liver

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<sup>27</sup> Corrao et al. (2000); Reynolds et al. (2003)

<sup>28</sup> Rehm (2010)

<sup>29</sup> Rehm (2011)

<sup>30</sup> Rehm (2010)

disease and causes liver damage. It affects 10% to 20% of heavy drinkers by restricting the liver's ability to metabolise fats, carbohydrates and protein.

#### **5.2.2.5 Diabetes**

Even though there is an abundance of evidence that suggests that moderate alcohol consumption reduces the risk of type 2 diabetes on a biological level, it is considered to be limited at best<sup>20</sup>. It has been suggested that the negative relationship between alcohol consumption and the risk of type 2 diabetes might be because of the generally healthier lifestyle which is suggested by both variables<sup>20</sup>.

#### **5.2.2.6 Maternal and perinatal conditions**

Something that is very specifically emphasised in the alcohol policy is maternal alcohol consumption and its consequences, which include miscarriages, low birth weight infants and Foetal Alcohol Syndrome. According to the liquor policy document, foetal alcohol syndrome is the most common antenatal cause of mental and physical disability. In 2009, according to the South African government, 25 000 babies were being born every year with foetal alcohol syndrome, which was the highest figure in the world. Unfortunately, there is no data available for the time period before the publication of the Act and the policy, so the impact of the legislation cannot be analysed overtime.

### **5.3 Alcohol and injuries**

Alcohol has several effects on the mind, including a depressed nervous system, disordered thought patterns, impaired judgement and perception and a decrease in generalised motor control. These impairments can lead to intentional as well as unintentional injuries. The relationship between alcohol, motor vehicle accidents and injuries as a result of domestic violence, is well documented and is discussed later. Alcohol abuse is also very often involved in drowning and railway passenger injuries<sup>31</sup>.

#### **5.3.1 Social costs of injuries associated with alcohol**

The societal damage caused by the domestic violence, child abuse and crime that results from excessive alcohol consumption has both financial and non-financial costs. According to the liquor policy document, alcohol is a factor in most cases in which woman and children in South Africa are

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<sup>31</sup>Marzopoulos (2008)

abused as well as in criminal activity. In certain geographical areas of the country, alcohol plays a part in over 80% of all cases of assault<sup>32</sup>.

Peltzer and Ramlagan (2009) mention a study done on the arrestees in three of the largest metropolitan cities in South Africa, namely, Johannesburg, Durban and Cape Town. This study was done using a questionnaire that was completed by the offending individual. 15% of all arrestees admitted to being under the influence of alcohol when the crime was committed<sup>33</sup>. Alcohol was most prevalent in offences related to weapons, rapes and family violence cases. Family violence seems to be a particular issue, with offenders being under the influence of alcohol in nearly half of the cases. Alcohol was involved in 17% of the alleged murders, 14% of the assaults and 10% of all the robberies that were part of the study<sup>9</sup>. The direct causal link has not been established between alcohol use and crime, but according to the study and its respondents, alcohol was consumed in most cases in order to gather the courage to commit the offence.

The presence of alcohol is not always exclusive to the perpetrator of the crime, but to the victim as well. As many as 57.7% of homicide victims tested, tested positive for a high blood alcohol concentration<sup>9</sup>. A large percentage of violence in South Africa occurs in the context of alcohol fuelled entertainment which often leads to fights, especially amongst men. This type of alcohol-related violence therefore very often happens in public places over recreational periods (which underlines the importance of regulating the retail spaces in which much alcohol consumption occurs). This is also true for violence between intimate partners. In a study done in the Western Cape, nearly two-thirds of the women were severely intoxicated at the time of their murder by their husbands or partners. The murderers were similarly intoxicated<sup>9</sup>.

### 5.3.2 Youth and Women

Women and children do not only suffer as a result of others' drinking, but also take part in the consumption and often abuse of alcohol. This is also specifically mentioned in the policy document. This increasing trend is especially prevalent in the lower socio-economic groups. Some of the

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<sup>32</sup>Department of Trade and Industry (1997)

<sup>33</sup>Peltzer and Ramlagan (2009)

specific problems that the policy mentions, as a driver of the increase, are high level of unemployment and a lack of recreational facilities<sup>34</sup>.

A recent survey was carried out by the Youth Research Unit (YRU) of the Bureau of Market Research (BMR) on the Youth of Gauteng. 4 346 randomly selected students participated in the study. Of those interviewed, almost 80% admitted to regularly consuming alcohol, of which two-thirds admit to having been drunk before<sup>35</sup>. Between 2002 and 2008 the percentage of unnatural deaths amongst youths where alcohol was involved increased from 38% to 43%. There was also an increase in the alcohol concentration in the blood of those that died<sup>36</sup>. This is a worrying statistic, and it is clear that South Africa has a serious youth drinking problem.

In another study done by Peltzer, Davids and Njuho (2011), three different surveys were analysed and information extrapolated in order to compare the results over time. From these surveys, it is quite clear that there is an increase in the number of women drinking. In 2008, 17.1% of all the women interviewed used alcohol. This was up from 15.7% just three years before in 2005<sup>37</sup>.

There are some health benefits to moderate alcohol consumption and it is therefore important to see what has happened to the percentage of women that display dangerous drinking patterns. Hazardous alcohol use increased from 2.2% in 2005 to 2.9% in 2008 while 3.8% of women interviewed admitted to binge drinking in the last month in 2008, compared to 3.2% in 2005<sup>4</sup>. Foetal alcohol syndrome, as discussed earlier, is a substantial problem in South Africa. These increasing figures of alcohol use amongst women in South Africa are particularly worrying as foetal alcohol syndrome is a direct result of alcohol abuse by women of child-bearing age. Alcohol abuse by women in this age group is thus damaging not only to the women themselves, but potentially also their children, and being under the influence of alcohol also increases the likelihood of a woman being the victim of domestic abuse. It is important that this is a priority for the authorities and it is rightfully included in the 1997 liquor policy document. However, the numbers are still increasing and more should clearly be done.

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<sup>34</sup>Department of Trade and Industry (1997)

<sup>35</sup>Bizcommunity (2012)

<sup>36</sup>Ramsoomar and Morojele (2012)

<sup>37</sup>Peltzer, Davids and Njuho (2011)

### 5.3.3 Public road safety

According to the liquor policy document, road accidents in South Africa cost the South African government R9 billion each year. In 1997, alcohol was involved in at least 50% of these accidents with either the driver or pedestrian being under the influence<sup>1</sup>.

In 2009, South Africa's road traffic mortality rate was 39.7 per 100 000, which is 26% higher than the African average and almost twice the global average. In 2006 it was estimated that these traffic accidents and consequent deaths cost the government nearly R11 billion. In 2007, it was also estimated that half of all pedestrian and driver fatalities were alcohol-related. This proportion has therefore stayed the same, but the fatality numbers have been steadily increasing since 2003, and therefore, the total number of fatal road traffic accidents related to alcohol has also been increasing<sup>38</sup>.

## 5.4 Key findings

According to the World Health Organisation, South Africa has one of the riskiest drinking patterns in the world, comparable to the drinking patterns of Russia, Ukraine and Mexico. Between 2003 and 2005, per capita consumption of pure alcohol equalled 9.5 litres per year, compared to an African average of 6.2 litres. This means that South Africans drink, on average, 53% more than the rest of Africa<sup>39</sup>, despite having high levels of abstention from alcohol consumption. A 2009 study of the drinking patterns of South African consumers over the last 12 years concludes that the prevalence of abuse has remained unchanged over the period.<sup>40</sup> This corroborates the above findings, which suggest that the harms associated with alcohol abuse have on average not decreased in South Africa, in the period since the implementation of the current legislation.

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<sup>38</sup>Seedat, et al. (2009)

<sup>39</sup>World Health Organisation (2011)

<sup>40</sup>Peltzer, Davids and Njuho (2011)

## 6. Interventions to combat liquor abuse

The policy document of 1997 identifies a host of social problems caused by alcohol abuse as well as general interventions needed to address these problems. The specific social problems highlighted by the document have already been discussed. The analysis now turns to a discussion of the proposed interventions, which are expressed in very non-specific terms.

Policy as well as legislation is primarily guided by the need to reduce per capita consumption and thereby the abuse of alcohol. It would seem though that this need had faded into the background between the publication of the Liquor Policy document in 1997 and the drafting of the Liquor Act of 2003. As it stands, socio-economic issues are only mentioned once in the Act, in reference to the conditions imposed on the liquor license applicant with regards to said applicant's contribution to curbing the abuse of alcohol and creating employment.<sup>41</sup> While this provision arguably provides wide scope to address the costs of alcohol abuse to society, in practise it does not put in place clear and specific obligations, the design and impact of which can be readily assessed. Chapter 7 of the Act also gives power to the Minister to regulate the content of public health notices as well as the manner in which these notices are to be displayed<sup>8</sup>.

The Liquor Policy document of 1997 is much more specific with issues pertaining to the socio-economics of the liquor industry. Its focus also seems to be more towards the harmful effects of alcohol. The implementation of the proposed instruments was to take place through an integrated approach that cuts across departments and sectors.<sup>42</sup> Integration between different stakeholders is therefore central to the policy's approach to tackling alcohol abuse. At a national level, this was to be done through a National Liquor Advisory Committee that would bring together members of government and a wide range of civil society organisations. The closest thing in the Act to this National Liquor Advisory Committee is the National Liquor Policy Committee. It seems that while the policy's committee would be more focused on socio-economic problems, the Act's committee is more industry focused, with no mention of its obligation regarding social issues<sup>43</sup>.

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<sup>41</sup>Government of South Africa (2003)

<sup>42</sup>Department of Trade and Industry (1997)

<sup>43</sup>Government of South Africa (2003)

Further interventions suggested by policy pertain to education, rehabilitation and the youth. Regarding education, there are two spheres. Firstly, the consumer needs to be educated as to the harmful effects of alcohol abuse. The primary objective of this would be the empowerment of the community through education which enable them to make responsible decisions about their own lives. Secondly, the liquor industry, specifically the waiter or barman in the formal and informal industry, should be educated. These workers should know the potentially devastating effects of selling alcohol to a youth or to an intoxicated patron<sup>44</sup>. Rehabilitation is also mentioned and the policy suggests welfare programmes, not just for the individual addicted to alcohol, but also for the families affected by an individual's abuse of alcohol. Finally, an integrated approach to public road safety is mentioned, as well as regulating advertising so that it highlights the harmful effects of irresponsible alcohol consumption.

It is clear from the discussion that even though a wide range of specific issues are addressed in the policy, the interventions required to achieve these objectives are left in more general terms in the policy. It is thus not always entirely clear how the interventions envisaged at the time of drafting the policy would differ from those actually implemented by the Act.

Government as well as industry have launched programmes that have been implemented over the last couple of years. These have proven to be marginally affective on a broad scale as alcohol abuse remains a persistent problem in the South African society. They are discussed below.

## 6.1 Government

The National Liquor Authority, housed in the Consumer and Corporate Regulation Division of **the dti**, is responsible for the administration of the Liquor Act of 2003. Even though alcohol abuse reduction is not explicitly part of their core mandate, as it is not explicitly emphasised in the Act, the NLA is in charge of processing and granting liquor licenses at a national level. As a condition for a liquor license, a manufacturer or distributor must be able to show how it will combat alcohol abuse.

In effect, this means that the NLA's role in granting licenses places it a position to influence alcohol abuse outcomes. The NLA however has limited capacity to assess the appropriateness of design, implementation and actual impact of these anti-abuse license conditions. As an organ of the dti, it is

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<sup>44</sup>Department of Trade and Industry (1997)

also concerned with the ability of licensees to meet employment and income generation potential, which could at times conflict with the goal of reducing alcohol abuse. No guidance is provided to the NLA on how to evaluate such potential trade-offs between industrial and alcohol abuse concerns.

The primary responsibility within government as regards to combating alcohol abuse falls on the Central Drug Authority (CDA), which is a statutory body within the Department of Social Development. The CDA is not only responsible for combatting alcohol abuse but also the use of illicit drugs. It was appointed in terms of the Prevention and Treatment of Substance Dependency Act of 1992. The Deputy Minister of Social Development inaugurated the CDA in 2006. Its primary objective was to formulate and implement the National Drug Master Plan (NDMP). All activities of the CDA are dictated by the NDMP, a plan spanning a period of five years which is upgraded and amended every five years. The first master plan was published in 2006 and spanned five years up until 2011. The next plan should have been finalised and published in 2012, but is currently only available in draft versions, with no clear deadline as to when it will be published. The Minister of Social Development made an announcement in March 2013 that the new Master Plan will be released in April 2013, but as yet, nothing is available<sup>45</sup>. The 2006 – 2011 Drug Master Plan mandated that each involved department had to also publish their own mini drug master plans which would set out how they will attack the specific issues related to their obligations. However, as of yet, only one of these can be found, published by the Department of Health.

The 2006 – 2011 Master Plan was general in tone, in that it did not specify explicit programmes to be implemented, but rather assigned responsibility to different departments and listed specific objectives that each player has to achieve. Priority areas are listed which are just spheres of society that are directly affected by alcohol and substance use. As will be seen, the priority areas are very much in line with the issues highlighted in the Liquor Policy of 1997. These include:

- Crime
- Youth
- Poor and vulnerable groups (unemployed, women, children, etc.)
- Health
- Research and dissemination of information
- International Liaison

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<sup>45</sup><http://www.sanews.gov.za/south-africa/national-drug-master-plan-be-approved-april>

- Communication (education)
- Capacity building (training of medical staff)
- Occupational groups at risk

The document then gives information regarding the interventions needed in society to address substance abuse problems. Once again, it is very non-specific and is more focused on giving objectives to be achieved by interventions rather than laying out strategies and programmes. The responsibility of the creation of the specific programmes lies with different departments and agencies. These departments and agencies are then listed with each given specific responsibilities.

It is troubling that the follow-up to the 2006-2011 plan has not been smooth, with only one mini drug implementation plan published by another Department, and no publication of a follow up plan in 2012. These implementation issues, together with the persistent high levels of alcohol abuse in wider society, suggest that more attention needs to be paid to these initiatives.

The only tangible result from the 2006-2011 NDMP was the mini drug master plan by the Department of Health. In it the plans are laid out for the means by which the Department of Health will address the responsibilities assigned to it by the NDMP. This included a reduction in the demand for and harm caused by psychoactive drugs, including alcohol and tobacco. It was assigned with the drafting and promulgating of policy and legislation that would assist in the ultimate objective of the reduction of substance abuse<sup>46</sup>. This document was very thorough with priority areas, key focus, strategies and interventions, actions and time frames being supplied in an orderly and logical manner. The document concludes with measurable M&E indicators that are to be used in order to track the progression of each of the programmes it suggests<sup>47</sup>. This plan runs until 2014, and an evaluation report will hopefully be available once it has run its course (as yet, no report on the successes or failures of the plan has been made available).

Another document that was published by the Department of Social Development was the Anti-Substance Abuse Programme of Action. It was developed on the bases of the resolutions taken during the 2<sup>nd</sup> Biennial Anti Substance Summit held in 2011. This plan of action was then intended to

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<sup>46</sup>Department of Social Development (2006)

<sup>47</sup>Department of Health (2011)

feed into the follow up to the 2006 -2011 Master Plan. The following objectives are listed in the programme of action<sup>48</sup>:

- To develop policy, review and align liquor legislation
- To educate and create awareness on substance abuse
- To promote equal access to resources across South Africa
- To respond to policies and legislation with regards to drugs and organized crime
- To review institutional mechanisms to prevent and manage alcohol and drug use in the country.

Outputs and concomitant indicators are assigned to these objectives and a year-by-year road map is then supplied for each indicator. For instance, under the final objective, i.e. “To create institutional mechanisms to prevent and manage alcohol and drug use in the country”, the output is “Strengthen law enforcement agencies and streamline their activities.” One of the indicators for this output is the revision of the National Drug Master Plan which must be implemented by 2012/13. It is difficult to say how successful this programme has been in general, as the range of outputs and indicators identified is very wide, and it is not clear that implementation has fully occurred as yet. While the implementation of the NDMP was planned in 2012/13, the final draft has not been issued yet.

Besides these specific programmes and interventions, government also taxes spirits, wine and beer. These excise taxes play a dual policy role, of both providing a steady source of tax income and of reducing alcohol abuse by increasing the cost of alcohol. Between 2003 and 2010, the excise level on spirits has increased by 109%, the excise on malt beer by 78% and the excise on fortified wine by 100%<sup>49</sup>. These increases are substantial. The efficacy however of liquor excise is questionable. Liquor is traditionally a very inelastic product in developing nations<sup>50</sup>, which means that consumer demand for the product does not change much in response to a price change. When looking at the statistics of South African alcohol consumption, it seems unlikely that these large increases in tax have had a major effect on consumption patterns. Excise rates therefore seem to be utilised more as a source of government revenue than a means of curbing alcohol abuse.

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<sup>48</sup>Department of Social Development (2011)

<sup>49</sup> SA Wine Industry Information System (2010)

<sup>50</sup> Tian and Liu (2011). If demand is elastic, the percentage change in volume demanded will be bigger than the associated percentage change in price, and vice versa for inelastic demand.

## 6.2 Industry

As required by its license conditions, the liquor manufacturing and distribution industry is involved in a wide array of initiatives that are designed and implemented with the objective of addressing the negative consequences caused by the abuse of its product. At the centre of these initiatives is the Industry Association for Responsible Drinking or the ARA.

The ARA is a non-profit organisation registered with the Department of Social Development. Established in 1989, through founding members, SAB, Wine Cellars SA, the South African Liquor Brand Association (SALBA) and VinPro, today, it is an association consisting of manufacturers, distributors and retailers within the liquor industry. These include major players such as SAB, Distell and Brandhouse on the manufacturing side as well as Tops, Makro and Diamond Liquor on the retail and distribution side<sup>51</sup>. Total membership adds up to 120 industry members.

Projects and interventions are primarily targeted at the South African youth as well as vulnerable adults that are most at risk of being affected by the negative consequences of alcohol abuse. These interventions are conducted in partnership with members and other stakeholders with similar objectives. ARA's projects can be categorised in the following way<sup>14</sup>:

- Advertising Campaigns
  - These campaigns are carried out through the media (TV/Radio/Print) in which people are made aware of the negative effects of irresponsible drinking.
- University Projects
  - These are campaign type projects that implemented at universities throughout South Africa in order to make South Africa's student population aware of ways in which alcohol can be enjoyed responsibly.
- Community Projects
  - In partnership with civil society organisations and NGOs, the ARA tries to play a part in communities that are affected by the socio-economic issues caused by alcohol abuse.
- Festival Participation
  - The ARA gets involved in festivals such as the Stellenbosch Wine Festival and the Wacky Wine Festival where they attempt to hand out stickers in order to create awareness for the importance of responsible drinking.
- Under 18's

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<sup>51</sup> [www.ara.co.za](http://www.ara.co.za)

- Education programmes focused on mostly high school scholars where they are made aware of the dangers of alcohol abuse.
- Member Campaigns
  - These campaigns are in direct partnership with ARA's members where they get involved in projects that are funded at governed by the members. These are usually in areas that the member is particularly interested in.

A condition for a liquor license is that an applicant must show how the venture would contribute to combatting alcohol abuse<sup>52</sup>. According to a representative from SALBA, if the applicant can prove membership to the ARA, then this is enough for this condition to be satisfied.

Prior research by Truen et al (2011), suggests that while the liquor industry in South Africa may have an extensive number of programmes aimed at combating alcohol abuse, either through the ARA or company-specific initiatives, few of the programmes implemented are evidence-based. The key findings from Truen et al (2011) indicate that

- Industry programmes do not focus on the areas which contribute the most to alcohol-related harms. For example, attention is focused disproportionately on drink driving as opposed to drunk pedestrians, when taking the burden of disease into account
- Most industry programmes are not evidence-based initiatives and thus in many cases, industry funds are being spent on programmes that have been shown to be ineffective
- A large proportion of industry initiatives are not effectively evaluated after their completion, in order to assess the true efficacy these programmes, and thus it is not clear if the funds spent are having an impact
- Many industry programmes are inappropriately targeted, not focussing on groups that are most at risk from alcohol abuse, or are too small to have a significant effect. This tends to further decrease the impact of funds spent

Because these industry anti-abuse programs comprise the bulk of the anti-abuse interventions proposed by the 2003 Act, it is of particular concern that the funds diverted to these programs are not appropriately targeted or monitored. The lack of detailed requirements for the design and evaluation of these programs in the Act and its regulations, together with the limited technical capacity of the National Liquor Authority to evaluate these programs when issuing licenses, both contribute to the current status quo.

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<sup>52</sup>Government of South Africa (2003)

## 6.3 Summary of findings

Despite the comparatively high level of abstention amongst the population, the analysis suggests that alcohol abuse is a significant problem in South Africa. The previous analysis suggests that despite the initiatives of both industry and government, patterns of alcohol abuse have not improved, and may have actually worsened. The ineffectiveness of anti-abuse initiatives is compounded by the lack of effective evaluation of many of these programmes, in both the public and private sector. These findings suggest that a significant revision of current programmes may be required in order to effectively curb liquor abuse in South Africa.

### Box 3 Alternative anti-abuse models

South Africa's current liquor anti-abuse initiatives are effectively driven by the ARA, especially given the sluggish developments regarding anti-abuse initiatives by the CDA. The ARA's position as the driver of anti-abuse initiatives for liquor has been further strengthened by the NLA's acceptance that contributions to the ARA are sufficient to satisfy the conditions of licensing for manufacturers and distributors.

The international review highlighted few anti-abuse bodies / agencies that both acted as drivers of anti-abuse initiatives and were effectively run by the liquor industry in these countries, given the inherent conflicts of interest this approach raises. In the main, agencies responsible for implementing anti-abuse initiatives and driving the anti-abuse agenda were either housed within government departments or were stand alone agencies, run by civil society organisations, health experts, government representatives or a combination of these.

In South Africa's case, arguments could be made for housing a dedicated division tackling liquor abuse within either the CDA or the NLA, especially given that both these authorities are already set up and have a legislative mandate to target health issues around liquor abuse. However, both entities face clear capacity challenges in the short-term and this may only serve to place further strain on the agencies. From a governance perspective, a body that is independent of the NLA may be less exposed to any policy conflicts, ensuring that industrial development objectives for the liquor industry do not intrude on health issues. This may, in turn, allow the NLA to focus more clearly on regulatory issues, while at the same time ensuring that the liquor industry is contributing to meaningful anti-abuse initiatives.

South Africa's original liquor policy proposed the formation of a National Liquor Advisory Committee comprising of members from government, the liquor industry, civil society organisations and other relevant stakeholders. While the final Act deviated from this, an anti-abuse body comprising representatives from the relevant government departments (such as Department of Social Development and the Department of Health), civil society, academics, and including health experts, may serve as an ideal platform to ensure that any such anti-abuse agency is able to propose evidence-based interventions. The revised South African National AIDS Council (SANAC) and SANAC Trust model (which includes significant civil society and academic representation in both the council and the trust) may provide a template on which such a body could be based, though funding and governance structures may need to be refined.

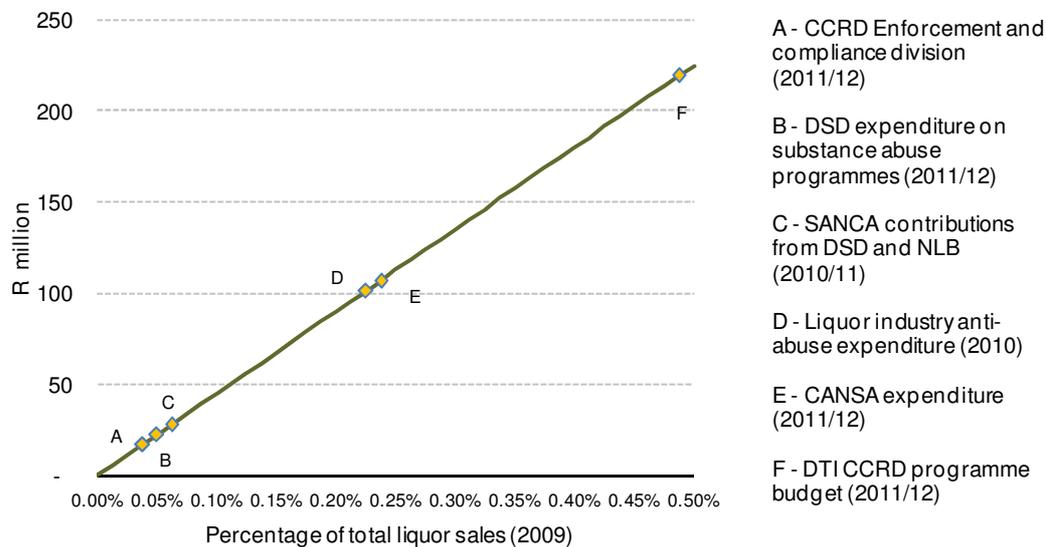
Other models to consider may include those used to regulate the National Lottery and the National Lottery Distribution Trust Fund (NLDTF). The National Lotteries Board (NLB) is responsible for regulating both the entity responsible for generating negative externalities (the National Lottery) and the agency established to distribute funds as a mechanism of countering the public harm caused by gambling (NLDTF), with members appointed by the Minister of Trade and Industry. In many ways this is similar to the NLA's mandate, which requires it to regulate the liquor sector but at the same time ensure that the sector is contributing to anti-abuse programmes. The benefits of such a model may be outweighed by the potential for policy conflict, as previously highlighted.

It should also be noted that while such an institution may be welcomed, any such body is likely to duplicate at least some of the initiatives and plans designed by the CDA, and in this sense may not necessarily be cost-effective.

The funding model used for anti-abuse bodies described in the international review mainly varied between those being funded solely through government finances (as a line function within government departments or through an agency funding model) or those funded through licence fees levied on firms operating in the liquor industry. Thailand highlights a different model, where a dedicated levy was introduced to fund the Thai Health Promotion Foundation, an agency set up to tackling health issues in the country. The levy is currently set as a 2% surcharge on alcohol and tobacco excise taxes.

Were South Africa to implement a similar levy (on top of current excise duties) on liquor sales in South Africa it is estimated that a 0.1% levy on sales would generate an estimated R45 million annually, based on liquor sales of roughly R45 billion (net of excise taxes) in 2009.<sup>53</sup> Figure 12 compares a potential levy on liquor sales to the budgets and expenditure of other entities involved in liquor regulation or targeting health issues and substance abuse.

**Figure 12 Levy on liquor sales**



Source: DNA Economics based on National Treasury Estimates of National Expenditure, DSD Annual Reports, NLB Annual Reports, Truen et al (2011), Econex and Quantec Research (2010) and CANSAs Annual Reports.

The scarcity of publicly available information on anti-abuse initiatives and comparable agencies makes analysis difficult, but it is clear that even a levy as low as 0.1% of total sales would exceed the budget of the CCRD's enforcement and compliance division (under which the NLA is housed) in 2011/12, the DSD's combined expenditure on substance abuse programmes in 2011/12 and the total contributions to South African National Council on Alcoholism & Drug Dependence (SANCA) by the DSD and the National Lotteries Board (NLB) in 2010/11.<sup>54</sup> Based on information from Truen et al (2011) it is estimated that expenditure by the liquor industry on anti-abuse programmes (either by individual companies or through the ARA) amounted to roughly R100

<sup>53</sup> Based on Econex and Quantec Research (2010)

<sup>54</sup> Information is based on the National Treasury's estimates of National Expenditure for 2012/13 and the Annual Reports for the DSD and NLB. The DSD's expenditure on substance abuse programmes combines two sub-programmes from the DSD's overall programmes 4 and 5.

million in 2010. This equates to a levy of roughly 0.23% based on 2009 industry sales. The Cancer Association of South Africa (CANSA), one of South Africa's most prominent health initiatives, with a dedicated programme focussing on tobacco abuse, spent roughly R105 million in 2011/12, equal to about 0.24% of the liquor industry's total turnover. A levy of 0.5% on liquor sales would generate over R225 million, more than the total budget allocated to the DTI's CCRD programme in 2011/12.

The analysis suggests that even a small levy would generate funds far in excess of the direct contributions being made by both government and industry towards interventions combating alcohol abuse and the associated burdens of disease. However, a number of caveats and issues need to be highlighted should serious consideration be given to the implementation of a levy on liquor sales to fund anti-abuse initiatives:

- Excise contributions are already high and significant. In 2011/12, total excise contributions by the liquor industry amounted to almost R13 billion. Following Treasury's review of excise benchmarks in 2011, the targeted total tax burden has increased to 35% for beer, 48% for spirits and 23% for wine, with industry stakeholders suggesting that these rates effectively push South Africa's tax burden on liquor above international averages. Further dramatic increases in this tax burden (for example through the introduction of a levy) are likely to be met with significant resistance from the industry.
- Care needs to be taken as regards the legislative design of such an industry levy to support a dedicated health agency. A levy which too closely resembles a tax may require the annual introduction of enabling legislation (much as the excise duties currently levied do). Any agency so funded should also be subject to adequate oversight to prevent wasteful expenditure.
- The amount of funding raised for interventions to combat liquor abuse does not matter unless the interventions are targeted at the right areas and are evidence-based. Truen et al (2011) provides a baseline analysis of the evidence-based interventions that may be required to combat alcohol abuse but further research is required to effectively cost out these interventions to ensure that any final "health levy" on the liquor sector is fairly balanced.

## 7. Regulatory performance

The success of a given regulatory scheme depends both on how well it is designed and on how well it is implemented. The following sub section evaluates a variety of indicators of regulatory performance, in order to assess the extent of such implementation problems as may be being experienced.

### 7.1 Regulation of manufacturers and distributors

#### 7.1.1 Licensing and enforcement

The National Liquor Authority (NLA) was formally established in April 2004, and was inundated with applications to convert existing wholesale licences to distribution licences in terms of the new Act, receiving in excess of 2,000 applications by the end of 2005.<sup>55</sup> The NLA, however, declined to convert the licences of a number of applicants, resulting in the NLA being taken to court to contest a number of these decisions. Following a High Court ruling in 2008 in favour of off-consumption and wholesale licence holders, the NLA was obliged to convert licences (for applicants who had applied for conversion prior to August 2004) to distribution licences under the new Act.

The NLA highlights that this ruling has significantly impacted the effectiveness of the authority. The initial number of applicants for a distribution licence was far higher than anticipated, and the NLA was not sufficiently capacitated to deal with the conversion of existing licences, the renewal of licences and the granting of new licences.<sup>56</sup> The legal action further exacerbated matters by delaying the conversion process. Thus the status of the bulk of the 2,000 licence applications were only finalised once the court case was completed in 2008. A backlog of close to 1,000 licence applications (consisting of both new applications and conversions) existed up until the 2008/09 financial year – with this backlog eventually only finally cleared in this financial period.<sup>57</sup>

By the end of 2012, the NLA had issued roughly 2,400 licences. The majority of these licences are for the distribution of liquor, as shown in Figure 13. The large number of licences can be attributed to two factors. First, the court ruling has raised the number of applicants for distribution licences.

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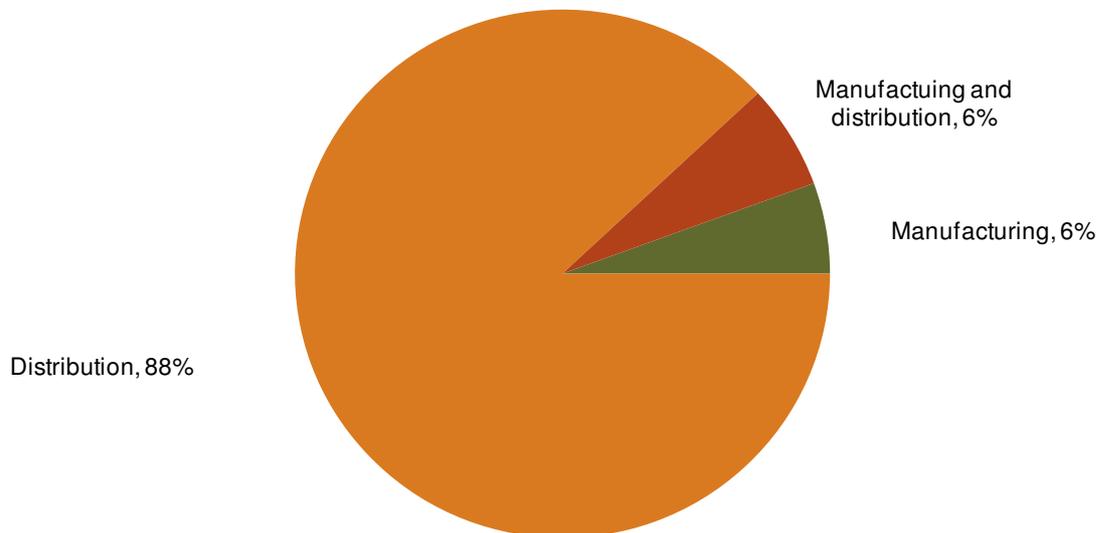
<sup>55</sup> Estimates of National Expenditure (DTI budget vote, 2004/5)

<sup>56</sup> Discussions with NLA.

<sup>57</sup> DTI 2008/09 Annual Report

Second, a licence is required for each site of operation, thus a firm with multiple manufacturing / distribution sites or subsidiaries would require a licence for each site or subsidiary. Application and processing times have varied since the NLA's establishment, but have improved from a waiting period of more than 12 months in the early years of the NLA's establishment to roughly 80 days in 2010/11.<sup>58</sup> The NLA has committed to further reducing processing times, by increasing capacity and implementing an online license renewal process.<sup>59</sup> Nevertheless liquor industry stakeholders highlight that the NLA remains insufficiently capacitated to deal with either administrative issues or the processing of licences.<sup>60</sup> A National Liquor Register was only fully constructed in the 2007/8 financial year, and while it is now regularly updated, the register does not contain provincial liquor licence information.

**Figure 13 NLA Licences as at Quarter 2 2012/13**



*Source: DTI presentation to NLPC*

Administrative and monitoring capacity is a significant issue for the NLA, especially given the higher than expected number of licences that were converted to distribution licences. As of November 2012 the NLA had a staff complement of 27 to administer the licensing and renewal process and only

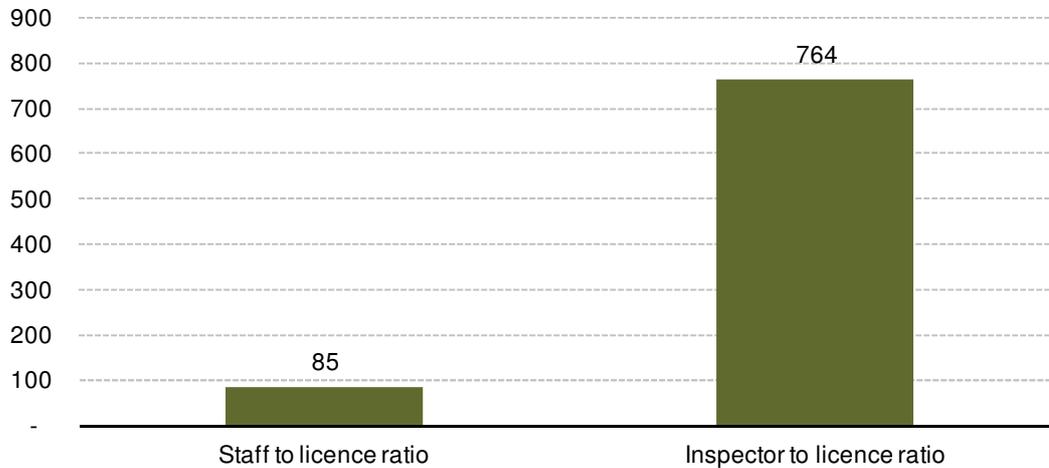
<sup>58</sup> DTI 2010/11 Annual Report

<sup>59</sup> Discussions with NLA and DTI 2011/12 Annual Report.

<sup>60</sup> Discussions with SALBA

3 inspectors to perform monitoring and inspection functions for over 2 000 licensees, as shown in Figure 14.<sup>61</sup>

**Figure 14 Staff and inspection capacity at NLA**



Source: DTI presentation to NLPC (2012)

Given the capacity constraints experienced by the NLA, the monitoring and enforcement of licence conditions remains low, as shown in Table 4. The patchy data prior to 2009/10 is a further reflection of the NLA's limited capacity, especially in the early years of its formation.

**Table 4 NLA compliance and monitoring activities**

	2006/2007	2007/2008	2008/2009	2009/2010	2010/2011	2011/2012
Number of inspections				106	135	309
Compliance notices issued				137	158	59
Liquor producers closed					16	27
Licence applications processed		201	237	234	317	446
Licence renewals processed					626	638

Source: NLA

Notes:

1. Number of inspections conducted includes compliance & targeted inspections
2. Applications processed indicates those issued with certificates and those declined
3. Renewals processed highlight only those issued with renewal certificates

While the NLA is the entity primarily responsible for the monitoring and enforcement of the manufacturing and distribution of liquor, a number of other regulatory bodies play an important role in complimenting the NLA's performance. These include excise collections by the South African

<sup>61</sup> DTI presentation

Revenue Services (SARS), license monitoring by the South African Police Service (SAPS), product quality control by the Department of Agriculture, Forestry and Fisheries (DAFF), retail alcohol licensing by provincial authorities and the municipal regulation of business hours and locations through by-laws and zoning. However, regulating bodies acknowledge a lack of co-ordination and collaboration in regulating the liquor sector, though this appears to have improved over recent years. Key issues in a collaborative approach to monitoring and enforcement include:

- Concern with operating outside of each entity's jurisdictional mandate. Thus, for example, SARS is primarily focussed on the collection of excise revenue, and is less concerned with the extent to which liquor producers are meeting the legal requirements of the NLA.
- Lack of formal arrangements between the different entities in areas of enforcement and regulation. An example of this is the collaboration between the SAPS and the NLA, where an MOU was only finalised with SAPS for inspection purposes in 2012/13 – five years after initiating the process.
- Lack of capacity. The NLA's capacity issues appear to have resulted in a loss of confidence in the authority, with other regulatory entities citing difficulties with collaborating with the NLA on enforcement given that they have little capacity to undertake such collaborative efforts.
- A lack of clarity in administering provincial versus national liquor legislation, especially with regards to the complexity in enforcing multiple acts which are not always aligned. The SAPS, in particular, notes difficulties in providing sufficient training and guidance for officers and inspectors to adequately enforce regulations based on two national liquor and seven provincial acts. In addition, there appears to be a disjoint between provincial enforcement by SAPS and some provincial authorities, often resulting in non-revocation of licences despite the SAPS notifying authorities of clear violations of regulations.

The MOU signed between the NLA and the SAPS has seen a number of SAPS officers trained and appointed to undertake inspection and monitoring activities in the liquor sector. The number of SAPS officers appointed by the end of 2012/13 is highlighted in Table 5.

**Table 5: SAPS officials trained in terms of National Liquor Act**

Province	Number of officers trained	Number of officers trained but no longer in the liquor environment	Number appointed
National	10	4	10
Eastern Cape	26	2	13
Free State	16	0	3
Gauteng	32	2	11
Kwazulu-Natal	36	2	22
Limpopo	28	1	7
Mpumalanga	22	1	12
North West	18	0	7
Northern Cape	32	1	24
Western Cape	47	0	23
<b>Total</b>	<b>267</b>	<b>13</b>	<b>132</b>

Source: SAPS

The number of officers appointed represents a substantial increase in the inspection capacity of the NLA alone. However, it should be noted that these inspectors are required to police the liquor sector at both a national (manufacturing and distribution) and provincial (retail) level.

### 7.1.2 Illicit alcohol

Illicit alcohol can be defined in a number of ways. These include:

- Excise evasion
  - Alcohol produced and sold for consumption on a comparatively large scale, where no excise duty has been paid to SARS by the producer of this liquor, regardless of whether they are appropriately licensed to produce liquor
- Unlicensed producers of liquor
  - Liquor produced by manufacturers that may pay (either the full amount or a portion of) excise duties, but that are not licensed by the NLA to produce liquor
  - Micro-manufacturers that produce liquor on a small scale but do not have the appropriate provincial licence to manufacture liquor. These include producers and sellers of “home-brews”, traditional beer and illicit concoctions

A number of methods are prominent in the production of illicit liquor, particularly where the primary aim of production is the evasion of excise duties. These include the use of cheaper spirits to produce illegal/ersatz variants of other categories of spirits (for example using cane spirits to manufacture brandy “knock-offs”), and the use of industrial alcohol (methanol or ethanol) to produce cheap

spirits.<sup>62</sup> It should be noted that the lower excise rates on wine also provide an incentive for producers to use wine as a base to make beverages that can be marketed as spirits or ales, for example, but at much lower excise payments than the real product. The legality of these beverages may at times be contested, but in many cases they remain legal.

Given the nature of illicit liquor production, industry estimates on the levels of illicit alcohol being produced and consumed in South Africa vary and are imprecise. It should also be noted that, understandably, more data is often available from industry on illicit products that compete with their licit products (ersatz spirits and wines, and grey label goods), than on illicit products that service the informal market, such as concoctions.

2009 estimates indicate that 160,000 hectolitres of spirits and about 400,000 hectolitres of wine were illegally produced and consumed.<sup>63</sup> More recently industry estimates suggest that illicit liquor is particularly prevalent in the cane and vodka markets, estimating that illicit liquor accounts for up to 13% and 6% of these markets respectively, with excise evasion exceeding R400 million per annum.<sup>64</sup> In 2013 SALBA estimates that illicit production of spirits amounted to as much as 9 million litres.<sup>65</sup> Industry stakeholders suggest that illicit liquor production may be growing, primarily because of increasing excise taxes, and despite recent clampdowns on illegal manufacturers and ethanol importers.<sup>66</sup>

Neighbouring sugar producing countries (particularly Swaziland), as well as Zimbabwe and Malawi have been identified as the key sources of the bulk of ethanol used in the production of illicit alcohol in South Africa. Industrial ethanol is particularly attractive as a base for illicit liquor production – in the case of vodka and cane, for example, industrial ethanol essentially only needs to be diluted with water and bottled to be sold as a retail product, and the cost of the ethanol required is much lower than the associated excise duty. Market participants suggest that the volume of production and sale of illicit alcohol indicates the presence of organised crime.<sup>67</sup> A large proportion of this liquor is

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<sup>62</sup> Gillespie (2011)

<sup>63</sup> Lester and Allen (2012)

<sup>64</sup> Holtzkampf (2012)

<sup>65</sup> SALBA presentation on illicit liquor trade (2013)

<sup>66</sup> Discussions with SALBA

<sup>67</sup> Lester and Allen (2012)

distributed through formal retail channels, where the liquor is sold at levels substantially lower than the true cost price, when including the excise duties. While the health dangers of illicit alcohol vary dramatically, a number of illicit liquor producers have been found to be using colourants and flavourants that were past their expiry dates, to be mislabelling their products by not identifying certain ingredients in the liquor produced, and to be producing liquor in unhygienic and contaminating environments.<sup>68</sup>

The production and distribution of ales (see Box 1), while mainly prevalent in the Western and Eastern Cape regions of South Africa, is seen as a significant and growing source of alcohol abuse, with the distribution of ales especially prevalent in informal liquor outlets. SALBA estimates that the production of ales currently exceeds 100 million litres a year, providing a cheaper and stronger substitute for wine and significantly denting the market share of standard category wines. The Sustainable Livelihoods Foundation study of informal settlements suggests that ales are widely accessible in shebeens and taverns in the Western Cape, with ales available in as much as 30% of the informal liquor outlets. While these ales are not illegal, per se, the existing regulatory gap has meant that the production and distribution of these ales has proliferated without sufficient testing and control to ensure that they are safe to consume. The underlying policy intent of lower excise rates in wine is also to promote the local industry, not to promote binge drinking of low quality product, and thus the manner in which ales are currently marketed and distributed undermines policy intentions.

A substantial cottage industry of concoctions micro-manufacturers is also in existence, concentrated in informal settlements and impoverished areas. These producers use primarily ordinary food ingredients to brew home-made beer, which may then be spiked with ethanol or otherwise strengthened to make it more attractive to the end customer. The wide availability of the ingredients needed to make such concoctions (for example, yeast, water, a few loaves of bread and a packet of sugar will suffice) make it extremely difficult to prevent such cottage manufacturers from operating, and to assess the volume of production involved. This study included focus groups in this area of the market, and the results of these focus groups, as discussed in section 0, sheds more light on these activities.

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<sup>68</sup> Gillespie (2011)

Recently a number of initiatives have been undertaken to combat the production and sale of illicit alcohol. These initiatives have been spearheaded by SALBA, along with industry regulators, through the formation of the Liquor Industry Sectoral Task Group, established specifically to illicit liquor production.<sup>69</sup> The increasing focus on illicit liquor has seen the confiscation, shutting down and raiding of a number of liquor producers through collaborative efforts between the SAPS, SARS and the Department of Agriculture.<sup>70</sup> However, stakeholders suggest that further co-ordinating activities are required to strengthen evidence collecting activities and the prosecution of illegal liquor producers in order to successfully combat illicit liquor production. In addition, amendments to the Liquor Products Act need finalisation to effectively monitor and regulate the production of ales.

### 7.1.3 Employment of minors

Both regulatory (NLA, SAPS, SARS) and industry stakeholders (SALBA) suggest there is little to no evidence of the employment of minors in the production and formal distribution of liquor. The NLA and SAPS indicate that the inspection and monitoring activities of the formal producers and distributors has found no evidence of the employment of minors. Research conducted in the informal retail market, however, suggests that the employment of minors in shebeens remains widespread (see section 10.3.4.1).<sup>71</sup>

## 7.2 Retail sector

While the retail sector falls outside of the NLA's regulatory mandate and resides with provincial authorities, a short assessment of the regulatory environment of the sector is important given the fact that the retail sector effectively represents the interface at which a large proportion of socio-economic harms related to alcohol abuse occur.

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<sup>69</sup> Holtzkampf (2012)

<sup>70</sup> Gillespie (2011)

<sup>71</sup> The Basic Conditions of Employment Act provides a wide definition of an "employee" as "any person...who works for another person or for the State and who receives, or is entitled to receive, any remuneration; and any other person who in any manner assists in carrying on or conducting the business of an employer". The Act further prohibits the employment of children under the age of 15 years. The Sectoral Determination for the Wholesale and Retail sector raises the age prohibition to 18 years where the work is inappropriate or places them at risk. This would suggest that the employment of anyone under the age of 18 is prohibited under labour law.

The National Liquor Act prohibits the employment by manufacturers and distributors of children under the age of 16 unless the employee is undergoing skills development training.

As shown in Table 6, the number of registrations in each province has increased significantly since 2003, and excluding data from Gauteng, there are over 56,000 licensed retailers (both on- and off-consumption) across South Africa.

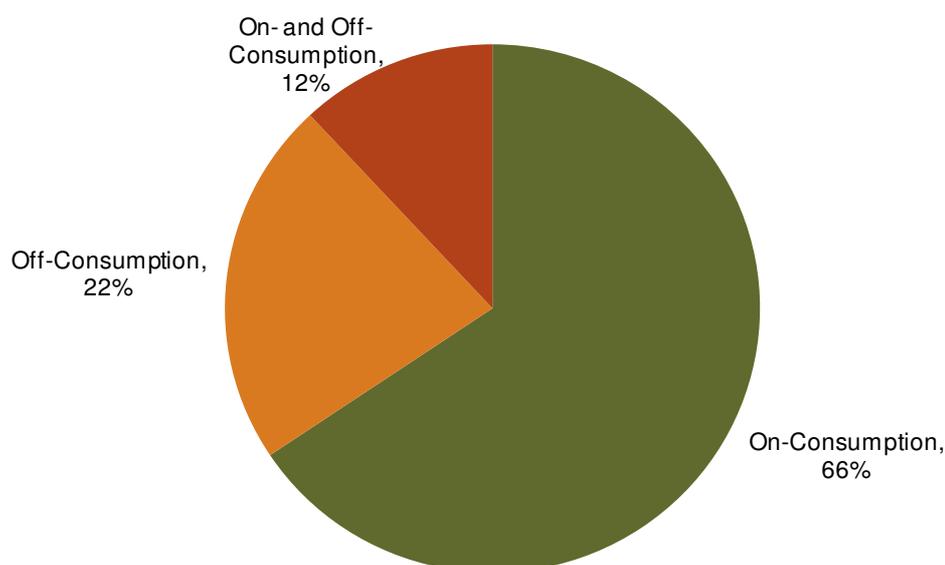
**Table 6 Provincial licences (2012/13)**

Province	Number of licences
Eastern Cape	8,022
Free State	4,684
KZN	10,327
Limpopo	8,678
Mpumalanga	6,707
North West	6,888
Northern Cape	1,868
Western Cape	9,124
<b>Total</b>	<b>56,298</b>

Source: DTI presentation to NLPC

The majority of these licences are for on-consumption, as seen in Figure 15, with just under one-quarter of licences issued solely for the purposes of off-consumption.

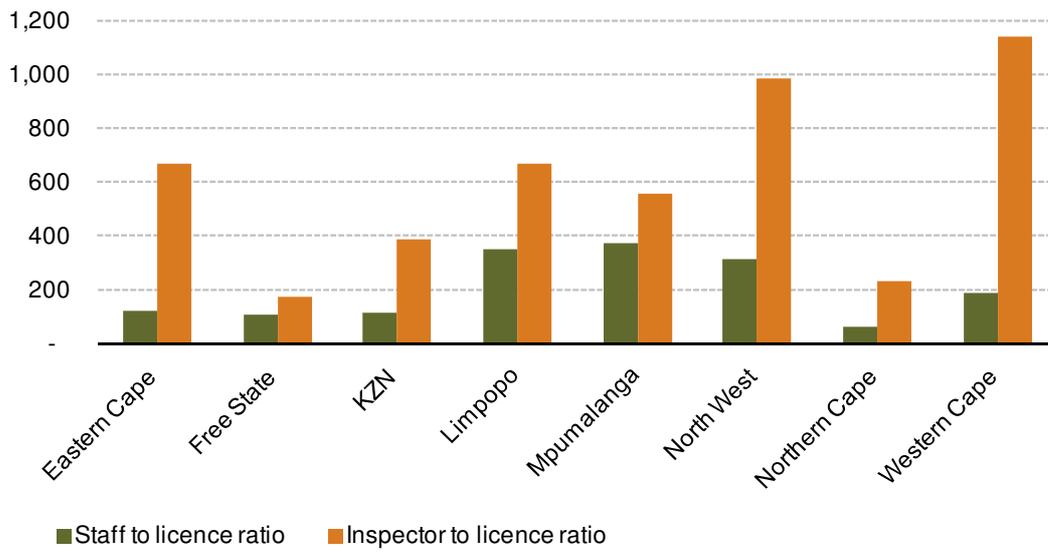
**Figure 15 Off- and on-consumption licences (2012/13)**



Source: DTI presentation to NLPC  
Note: excludes licences in Gauteng province.

Staff ratios indicate that provinces likely face similar capacity constraints to the NLA, with high staff-to-licence and inspector-to-licence ratios across most provinces, with the exception of the Northern Cape and Free State provinces.

Figure 16 Staff and inspection capacity at provincial liquor authorities



Source: DNA Economics based on NLA presentation to NLPC

## 8. Industry contribution to the economy

### 8.1 Contribution to employment

There are no official statistics providing insight into employment in the liquor industry but a number of recent studies provide estimates of the direct and indirect impact of the liquor industry on employment and the overall economy in South Africa. The two most recent of these include research commissioned by SAB in 2010<sup>72</sup>, and a study on the liquor industry commissioned by the dti in 2011.<sup>73</sup> These studies suggest that the manufacturing and distribution liquor sectors directly employed between 21,000 and 30,000 workers, the bulk of which are employed in the spirits (mainly brandy) and wine sectors, mainly due to the labour intensive nature of these industries and the especially close linkages with the agricultural sector. Given the extent to which the distribution sector of the value chain is vertically integrated (both up- and down-stream), disaggregated employment statistics for liquor distribution are especially difficult to estimate.

Truen et al (2011) further estimate that up to 40,000 people are employed in the formal retail sector (both on- and off-consumption) through the sale of liquor. However, as noted in Section 10, the informal sector may provide the largest proportion of jobs within the overall liquor industry given the subsistence nature of many informal liquor traders and the widespread prevalence of informal liquor outlets.

### 8.2 Contribution to GDP

The liquor industry is estimated to have contributed between 3.9% (R93.2 billion in 2009/10) and 4.4% (R94.1 billion in 2009) of GDP by Truen et al (2011) and Econex and Quantec Research (2010). These estimates include the direct, indirect and induced impacts of the liquor industry, with the induced impacts accounting for as much as 60% of the liquor sector's total contribution to the economy.

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<sup>72</sup> Econex and Quantec Research (2010)

<sup>73</sup> Truen et al (2011)

## 9. Industry concentration levels

Historical factors have contributed to high levels of concentration and thus low levels of competition in many areas of the South African liquor market. From the point of view of enhancing the potential of the sector to contribute to job creation and income generation, this has for some time been a key policy concern of government in the sector.

The licensing data does not provide encouragement that levels of competition in the sector are generally increasing. With the exception of the wine sector, the liquor industry has seen some consolidation at the manufacturing level since the implementation of the Act, as shown in Table 7. The wine sector has seen an increase in the number of role players, though some consolidation of wine farms. The number of licensed distributors appears to have increased significantly, though this is largely due to the requirement that every distribution site and subsidiary owned by an enterprise be individually registered. In the retail sector it is estimated that over 65,000 licences have been issued, suggesting a highly fragmented and competitive sector. In terms of manufacturing, the overall analysis suggests that there have been few new companies outside of the wine sector that have established a strong presence in the South African market. While the number of distribution licences appears to have increased significantly, this is largely due to the upstream integration of retailers and the licensing practice of assigning an individual licence per premise for each distribution company.

**Table 7: Changes in industry between 2003 and 2011**

2003	Sector	2010/2011
4346	Grape farmers	3527
428	Wine cellars	582
5 – 10	Major spirits producers (incl. importers)	5 - 10
5	Major (macro brewers) beer producers	2
33	Distributors	Over 2,000 licensees
30,000 - 35,000	Retail licences granted	Estimated over 65,000

*Source: DNA Economics based on Reality Research African (2004), Truen et al (2011) and A&T Consulting (2005)*

## 9.1 Production

While the number of major spirits producers (and importers) has remained relatively unchanged, a number of factors have led to consolidation in the beer producing sector. The first is the increasing consolidation at an international level, highlighted by the fact that the top five beer producers in the world are now estimated to account for roughly 50% of beer produced globally.<sup>74</sup> This has seen the number of producers in South Africa, and potential entrants into the South African market, falling as companies merge at an international level. The second has been the formation of Brandhouse in South Africa, through an alliance between international liquor producers Diageo, Heineken and Namibian Breweries. Brandhouse was formed to provide a better avenue of distribution for the three companies and to compete more effectively against incumbent operators.

The predominantly beer drinking culture in South Africa has meant that SAB continues to dominate the liquor landscape. The formation of Brandhouse has seen a consolidation of the remaining beer producers, while at the same time resulting in entrenched positions for Brandhouse parent companies in a number of spirit sectors outside of brandy.<sup>75</sup> In addition, the approval of the acquisition of 50% of United National Breweries (South Africa's only remaining formal sorghum beer producer) by Diageo<sup>76</sup> has resulted in an overall increase in the concentration of liquor production.

## 9.2 Distribution

The distribution sector of the value chain is to some extent conditioned by widespread vertical integration between producers and distributors, as well as vertical integration between distributors and retailers.

Given that vertical integration is not prohibited by law, the distribution network in South Africa can effectively be divided into two different components of the liquor value chain. The first component is direct distribution from manufacturers to retailers (both off-consumption and on-consumption). Here larger manufacturers often either own the distribution network or contract the direct distribution of products out to distribution companies (in other words, some form of vertical integration is present). The second component is the effective redistribution of liquor products,

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<sup>74</sup> Based on data from Barth Haas Group and Germain Hansmaennel (2012).

<sup>75</sup> Based on Truen et al (2011)

<sup>76</sup> Competition Tribunal of South Africa, Case No: 107/LM/Dec12

involving both distributors and wholesalers, which are usually independent of producers. The increasing integration between wholesale and retail (including the rise of “big-box” format stores) has meant that wholesalers are often licensed to sell to both licensed retailers (i.e. to act as distributors to on- and off-consumption licensees) and unlicensed consumers. Operators licensed as distributors often compete directly with the direct-to-market approach taken by producers, especially SAB.

The major liquor producers and importers in South Africa are highly integrated vertically, with all producers holding both manufacturing and distribution licences, shown in Table 8.

**Table 8 Vertical integration of major liquor producers**

		Manufacturing Licence	Distribution Licence	Number of distribution licences (including combined manufacturing and distribution licences)	
<b>South African Breweries</b>		X	X	55	
<b>Brandhouse</b>	Diageo	Diageo	X	3	
		UNB	X	90	
	Namibian Breweries			X	1
	Heineken			X	1
<b>Distell</b>		X	X	13	
<b>E Snell</b>		X	X	10	
<b>DGB</b>		X	X	8	
<b>KWV</b>		X	X	5	
<b>Pernod Ricard</b>		X	X	2	

Source: DNA Economics based on NLA Register (September 2012)

As shown previously in Truen et al (2011) and based on evidence in the competition matter between SAB and independent distributors<sup>77</sup>, the large and well-developed distribution network owned and operated by SAB provides it with a significant advantage over other producers. The control of this distribution network is therefore an important factor for competing manufacturers in South Africa’s landscape.

SAB has substantial market power and an entrenched brand position, and has been accused of unfair practices in the distribution of liquor products. These include tying “appointed” distributors to SAB brands, locking distributors into specific geographic locations and effectively creating a barrier

<sup>77</sup> Case No 134/CR/Dec07

to new entrants in distribution by its approach of direct-selling to retailers, at the same price as that offered to independent distributors. SAB has also been accused of harming existing distributors and competing producers by offering incentives to retailers to buy direct from SAB, including the provision of refrigeration, satellite television and other marketing aids for use by retailers.

Despite the substantial increase in the number of distribution licences awarded, the nature of vertical integration between production and distribution suggests that the extent of concentration in the distribution sector remains fairly high. A prohibition on vertical integration between manufacturing and distribution of liquor might go some way towards improving levels of competition in the distribution sector. However, levels of concentration in the manufacturing sector are so high that a mere prohibition on vertical integration is unlikely to fully resolve concerns as regards the ability of large producers to foreclose distribution markets to their production competitors. To some extent, a prohibition on vertical integration at this point would thus be a case of closing the stable door after the horse has bolted.

### **9.3 Transformation in manufacturing and distribution**

After four years of consultations and negotiations a wine industry transformation charter was adopted in 2007. As highlighted by Truen et al (2011), the complex ownership structures in wine production make an objective assessment of transformation difficult. At farm level roughly 80% of wine grape farmers are exempted from compulsory BEE compliance requirements in terms of the wine industry charter, given that they fall below the turnover threshold for which the charter applies. Identifying the extent to which transformation in the industry has occurred is further exacerbated by a lack of monitoring. The South African Wine Industry Trust (SAWIT) (2012) notes that since the adoption of the charter in 2007, there has been little progress in establishing a monitoring and evaluation framework in order to provide an assessment of whether the wine industry has achieved its transformation targets.

In 2013, it was estimated that just over 5,000 hectares of over 100,000 hectares of wine farm land was black owned. 31% of these black-owned farms were “fully black-owned”, while the remainder were black-owned through an equity scheme (or trust scheme) where black equity (either labour trusts or private owners) ranged between 50% and 70%.<sup>78</sup>At a producer level, estimates suggest that

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<sup>78</sup> Purchase (2013)

only 2% of wine produced in South Africa is made by black winemakers, while roughly 1% of wine companies are fully black-owned. Challenges highlighted in terms of encouraging new BEE entrants into the wine industry include funding and land ownership, limited distribution channels and consumer education.<sup>79</sup> Producer cellars have been reluctant to implement BEE plans, though surveys of producer cellars between 2004 and 2008 suggest that producers cellars with BEE plans have grown from 35% in 2004 to over 50% in 2008.<sup>80</sup>

South Africa's major liquor producers have focused on transformation through improvements in the BEE scorecard, with South Africa's major producers, including SAB, Distell and KWV, improving to a Level 4 BEE level (100% B-BBEE compliance level) over recent years.. Foreign owned manufacturers, such as Brandhouse, tend to have lower levels of BEE compliance.<sup>81</sup>

Given the extent of industry concentration at the manufacturing (and distribution) level, outside of the wine industry, opportunities for new entrants remains limited. The industry has also been unable to agree on an industry-wide BEE charter, resulting in the NLA being required to drive transformation through the licensing process. Given the capacity limitations the NLA has experienced until relatively recently, there has been little focus on the conditions of registration, as outlined in section 13 of the Liquor Act, and little in the way of monitoring BEE in the industry. The NLA has indicated that it has improved the licensing process, with a greater focus on applicants' BEE commitments, and that in future licensing registration will depend more heavily on the extent to which applicants have committed to BEE (through the development of BEE plans, for example).<sup>82</sup>

## 9.4 Formal retail

The formal retail sector has seen almost a doubling of licensed retailers over the last decade, suggesting that the sector is highly competitive. Despite the emergence of "big-box" store formats, as well as the increasing overlap between liquor distributors and retailers (with firms licensed at both the national and provincial level), Figure 17 and Figure 18 highlight that overall concentration in

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<sup>79</sup> Lefifi (2012)

<sup>80</sup> Based on PWC (2009)

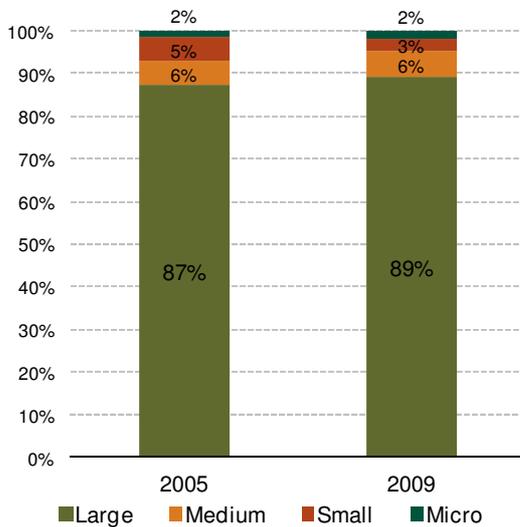
<sup>81</sup> Based on companies' 2012/13 BEE scorecards.

<sup>82</sup> Discussions with NLA

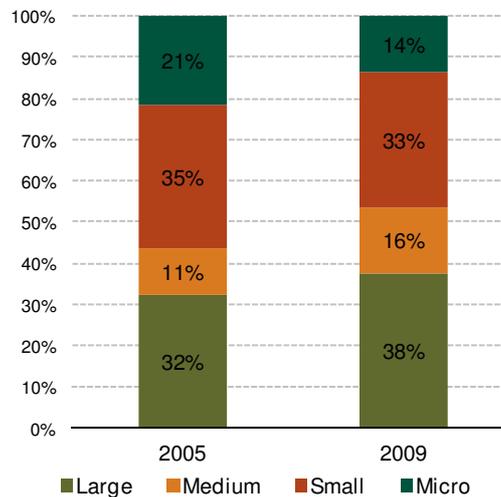
the general retail (off-consumption) sector may have fallen, while concentration ratios in “specialised retail stores” (such as bottle stores) have not changed significantly.

**Figure 17: Retailer income by enterprise size**

General dealers (mainly food, beverages and tobacco)



Food, beverages and tobacco in specialised stores

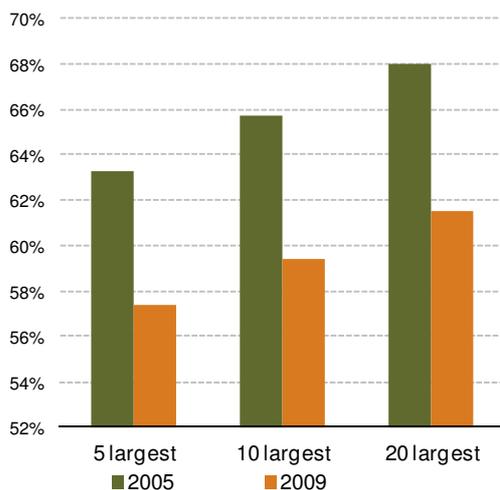


Source: DNA Economics based on Stats SA

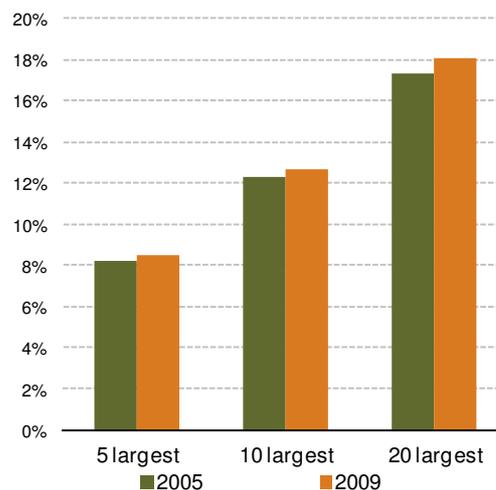
Large enterprises account for most of the income earned by general dealers (which typically include “big-box” format and wholesale stores), though the level of concentration fell from 2005 to 2009.

**Figure 18: Retailer concentration ratios**

General dealers (mainly food, beverages and tobacco)



Food, beverages and tobacco in specialised stores



Source: DNA Economics based on Stats SA

For specialised stores, income is much more evenly distributed between different enterprises sizes, and the 20 largest enterprises are estimated to account for less than 20% of income in 2009.

The on-consumption liquor sector is highly fragmented, as highlighted by Truen et al (2011), and levels of overall concentration are low.

## 10. South Africa's informal retail market

The importance of South Africa's informal retail market cannot be underestimated. Various estimates suggest that the majority of liquor consumption occurs through informal and unlicensed liquor outlets (both on-consumption and off-consumption). In addition, these informal retail channels provide employment and entrepreneurial opportunities to otherwise marginalised communities. Understanding the dynamics within the informal market is additionally important given the potential for significant levels of alcohol abuse to occur at this level, and because the informal sector represents a major opportunity to widen the regulatory net and encourage transformation in the liquor industry.

The analysis of South Africa's informal retail market draws on research findings from focus groups and one-on-one interviews undertaken by FOSHIZI and provided in Appendix 2. The analysis also draw heavily on prior research by Truen et al (2011) and the significant work on informal liquor markets undertaken by the Sustainable Livelihoods Foundation.

### 10.1 Defining the informal market

The informal market consists of unlicensed retailers, producers and distributors of liquor. However, in practise these informal actors are often in direct competition with newly-licensed retailers, many of whom previously operated informally. An assessment of the unlicensed shebeen market must thus take cognisance of the licensed tavern market in order to fully understand competitive dynamics. This market structure is heavily influenced by historical factors, as liquor operators operating in South Africa's townships and informal settlements were, under Apartheid-era laws, more-or-less by definition illegal, but can now obtain licenses.

### 10.2 The size of the informal market

As highlighted by early industry studies, such as A&T Consulting (2005), as well as more recently by Truen et al (2011), South Africa's apartheid-era liquor regime has resulted in an effective dual market at the retail level. A large proportion of liquor is consumed through the informal market, with estimates suggesting that more than 90% of beer and 50% of wine volumes sold annually are consumed in this sector. The informal sector is thus a significant component of South Africa's liquor value chain.

Given the dynamic and unrecorded nature of the informal sector, there are no clear estimates of the number of informal liquor outlets operating in South Africa. Early studies, such as the Eskom OMNI

Panel survey in the 1990s and SAB's survey of Gauteng in 1995 suggest that the number of informal liquor traders ranges anywhere from 100,000 to 200,000. The Sustainable Livelihood Foundation (2012), extrapolating from their survey of the informal economy, suggest that there at least 180,000 and as many as 250,000 informal liquor traders of varying sizes operating in South Africa. This research suggests that as many as 1 in 6 traders in townships and informal settlements operate as liquor traders, with a high level of density in the distribution of these liquor traders.

### **10.3 Key metrics of informal operators**

The analysis undertaken by FOSHIZI does not include a large enough sample to be regarded as representative of the national informal sector. The results should thus be regarded as providing a snapshot of economic activity in the informal liquor sector in certain parts of Gauteng, which may be used to inform the design of further research on the informal sector going forward. More detail on survey methodology is provided in Appendix 2.

#### **10.3.1 Licensing and enforcement**

The primary research undertaken by FOSHIZI found that most liquor traders surveyed were unlicensed, noting that when compared to unlicensed shebeens, identifying legal, licensed taverns proved much harder. This is confirmed by the Sustainable Livelihoods Foundation (2012), which found that less than 7% of the almost 500 informal liquor retailers identified were licensed, while over 80% of informal retailers (typically the smaller operators) have never attempted to undergo the licensing process. This suggests that unlicensed liquor retailers outnumber licensed liquor outlets by a significant margin.

The focus groups and one-on-one interviews by FOSHIZI highlight that the licensing process is often met with suspicion and considered too daunting to undertake. Some of the key issues include the cost of application, the stringent requirements for liquor outlets (including the location, size and availability of amenities) and the belief that there is too much "red tape". This is despite the acceptance by shebeen owners that liquor licensing can ultimately be beneficial as a tool to reduce levels of police harassment and to achieve better pricing by engaging with formal manufacturers and distributors.

The primary research conducted by FOSHIZI suggests that police monitoring and enforcement is a common occurrence for both licensed and unlicensed shebeens. However, levels of harassment and confiscations appeared to be higher for unlicensed shebeens. The Sustainable Livelihoods Foundation (2012) found that police raids and confiscations, while having a short-term impact on

incomes, are not significant deterrents to the long-term operation of shebeens. Evidence suggested that dedicated targeting of shebeens by policing had also led to higher levels of police corruption.

### **10.3.2 Products and sales volumes**

The primary research highlights that both licensed and unlicensed shebeens sell a range of legal liquor products, though beer is, in general, the biggest seller for shebeens. For the primary research only shebeens that sold over 20 cases of beer a week were included in the sample. Concoction manufacturers sell the product on both an off- and on-consumption basis, though shebeen owners discourage the consumption of concoctions on their premises, since this competes with the sale of shebeen products.

The Sustainable Livelihoods Foundation (2012) found that the informal liquor traders are largely made up of operators selling less than 16.5 crates of beer (150 litres) per week. Of the liquor traders surveyed 60% of businesses fell into this category. Less than 6% of businesses sold more than 66 crates per week, with the remainder falling between these thresholds. This research also notes the growing availability of ales in Western Cape informal areas, though beer remains the most prevalent drink.

### **10.3.3 Sourcing of products**

The focus groups and one-on-one interviews indicate that licensed shebeens often buy their stock directly from the manufacturers and distributors, in order to take advantage of lower prices and delivery. The findings suggest a preference for SAB products, given the demand for these products and because SAB is one of the few manufacturers willing to provide the licensed shebeens with credit. However, shebeen owners have little pricing freedom given that manufacturers provide a suggested (recommended) retail price and competition between liquor outlets is strong. During periods where shebeens run out of stock, the owners rely on purchases from other licensed outlets and formal, big-box retailers.

Unlicensed shebeens buy their stock directly from the local taverns, bottle stores and wholesalers (big-box stores) and transact on a cash basis. Delivery of products is done at the owner's cost and transport, while trolleys are used to purchase liquor products from nearby taverns in the event of shortages. Concoction manufacturers primarily sell their product (which they refer to as traditional beer) from their point of production (which is often their home), and product ingredients include bread, yeast, sugar, malt, pineapple and oats. Ingredients are purchased at local retailers.

### **10.3.4 Employees**

The findings from the focus groups suggest that informal liquor employees have little job security, with no contracts or protection from unfair practices, and are employed to undertake multiple tasks, with no fixed job description. Estimates of payment range from R1,000 to R2,000 a month though employees at unlicensed shebeens note that cash wages are often substituted with payment in the form of alcohol (a practice which is explicitly prohibited by the 2003 Liquor Act). On average, a medium-sized shebeen employs between three and six people, while a large one employs eight to twelve.

#### **10.3.4.1 *Employment of minors***

The primary research suggests that the employment of minors in shebeens is a common practice, especially among unlicensed shebeens. There is a clear distinction between evidence from shebeen owners (who generally insist that no child employment takes place) and shebeen employers, highlighting that owners are generally aware that the employment of minors is considered a significant violation of liquor and labour laws. For licensed shebeen owners, it appears that it is primarily the owners' children engaged in employment, undertaking tasks such as cleaning and cashier.

Unlicensed shebeen employees indicated that age is not a deterrent for employing staff members, and they work with minors as young as 10 years old. While some minors are shebeen owners' family members, others are local school pupils in the area employed on a part-time basis to undertake cleaning, serving and packing of liquor products.

This finding corroborates with Charman and Deguire's (2007) findings in their rapid assessment of child employment in the liquor industry. Their findings suggested that employment of minors in shebeen environments was prevalent, consisting mainly of children within families of shebeen owners. Their estimate, extrapolating information from interviews with shebeen traders, suggested that between 165,000 and 250,000 children are involved in liquor-related work activities.

## **10.4 Socio-economic consequences**

### **10.4.1 Consumption of alcohol by minors**

The primary research conducted by FOSHIZI suggests that the serving of alcohol to minors is commonplace for both licensed and unlicensed shebeens, though licensed shebeen owners noted the presence of "bouncers" and security to discourage this practice. Employees of licensed shebeens admit to accepting bribes from under-age buyers, while others note that parents who send their

children to buy liquor are the main problem. Underage customers are often also seen to have the largest “buying power” thus making it difficult for employees and owners to ban the sale of liquor to minors given the negative impact this would have on sales. Here, again there is a distinct contrast between the admissions of shebeen owners, who claim that the sale of liquor to minors does not happen, and shebeen employees, who suggest that sales to minors is a frequent, regular occurrence.

#### **10.4.2 Alcohol abuse and safety**

Qualitative evidence suggests that there are high levels of binge drinking exhibited at both licensed and unlicensed shebeens, leading to undesirable conduct by patrons. A number of additional factors are considered by shebeen employees to exacerbate crowd rowdiness and conflict, including overcrowding and shared toilets. Shebeen employees suggest that harassment of women (both employees and patrons) is prevalent and the lack of separate toilet facilities leads to higher incidences of sexual activity. Some effort is made to reduce negative behaviour by employing security who monitor patrons and by discouraging the sale of liquor to patrons that are clearly drunk. The unlicensed shebeen employees have reported that *Nyaope*, a drug mixed with marijuana, heroin, antiretrovirals and (sometimes) rat poison, is sold and smoked at some unlicensed shebeens. Customers sell *Nyaope* to other customers, some of whom are already drunk.

## 11. Summary and recommendations

This report comprised an evaluation of the extent to which the 2003 Liquor Act has affected market outcomes in the South African liquor sector. While the objectives of the Act were partially articulated in the 1997 policy statement issued by **the dti**, substantial differences exist between the policy and the Act, and the passage of time has also highlighted new sector priorities.

Evaluating the impact of the Act is complicated in some instances by the availability of data, both as regards the baseline conditions prior to implementation of the Act, and as regards current market outcomes, particularly in the informal sector. For example, while it is encouraging to note that the formal per capita consumption of liquor has fallen over the period, there is also evidence to suggest that the consumption of ales and illicit liquor may be increasing, and it is not clear whether the net consumption trend is thus in fact decreasing.

The pattern of alcohol consumption in South Africa is, by international standards, highly troubling, with a high incidence of binge drinking and alcohol abuse amongst drinkers, despite the fact that many adults remain abstinent. To this end, it is critical that South Africa be successful in changing the pattern of drinking among consumers. To date, however, the evidence suggests that programs directed at achieving such behavioural changes, as implemented by both the private and public sector, often have little impact. Government initiatives have suffered from poor coordination and delayed implementation, while private sector initiatives are often poorly designed and targeted (and the legislative environment contributes to such design issues by not providing sufficient guidance to licensees on how to implement their anti-abuse obligations).

Much could be done to improve current regulatory outcomes by ensuring that national and provincial alcohol authorities are better capacitated to undertake their regulatory tasks. Both in terms of absolute staff numbers, and arguably in terms of the mix of skills required to adequately assess license conditions such as anti-abuse provisions, institutions such as the NLA remain under-capacitated.

Jurisdictional complexity at national and provincial level, and the sometimes stark differences in provincial regulatory systems, makes effective monitoring and enforcement of liquor regulation difficult. This is compounded by a lack of effective collaboration between different authorities, again at both national and provincial levels. The Constitutional requirement for liquor retailing to be regulated at provincial level has both fragmented and delayed the implementation of regulatory reform in the sector.

The level of competition in the sector remains a concern. In fact, South Africa’s liquor manufacturing industry has seen consolidation in recent years, which is largely in line with international trends in liquor manufacturing. Vertical integration between liquor production, distribution and retailing is highly prevalent, and the dominance of SAB in the beer production and distribution markets has had negative implications for the potential entry of competitors in both production and distribution levels of the market. If the original intent of the 1997 policy in terms of vertical integration had in fact been carried out in the 2003 legislation, it is likely that some of these competitive restrictions would have been avoided.<sup>83</sup> In contrast, the retail industry is largely competitive, and has seen a substantial increase in the number of licensees.

While competition in the retail sector is not of concern, it remains problematic from the point of view of preventing alcohol abuse. A large proportion of liquor consumption, and thus also of alcohol abuse, occurs in unlicensed outlets. If the social harms associated with such consumption are to be better addressed, what is needed is a “widening of the net” to include informal retailers in the regulatory landscape. Informal retailers also provide a significant potential avenue for providing greater transformation in the overall liquor value chain.

The liquor sector plays a vibrant role in the economic and social spheres of South African life, but simultaneously contributes much more than it should to variety of social problems. The regulatory framework governing the sector could benefit from both the provisions of more regulatory resources, and from regulatory reform, in order to meet these objectives. A number of recommendations for the sector are thus now provided.

### ***Achieving an improvement in regulatory implementation***

Much of the success of a given regulatory regime is determined by how well it is implemented. Implementation success in turn depends both on whether regulation has been designed to be as

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<sup>83</sup> It should be noted that discussions with the Competition Commission suggest that, to some extent, imposing restrictions on vertical integration at this point may be a case of shutting the stable door once the horse has already bolted. In other words, vertical integration can be used to foreclose competitors in markets in which there is some real contestation for clients, but when substantial market dominance has already been achieved by the incumbent operator, vertical integration becomes only one of a number of techniques the incumbent can use to foreclose competition. Simply restricting vertical integration at that point may then be insufficient to remedy the problems in the market. Given these concerns, no firm recommendation to re-impose the restriction on vertical integration is made by this report.

easy as possible to implement, and on whether the regulator has sufficient capacity to undertake its regulatory responsibilities.

It is clear that the National Liquor Authority does not have sufficient capacity at present to implement its mandate fully. Its staff complement is stretched by license issuing requirements, and its inspections capacity is very low. It may also lack skills to adequately oversee the anti-abuse commitments of licensees, and its ability to participate meaningfully in sector coordination activities appears to have been compromised by a lack of capacity, which is highly problematic given the prevalence of shared jurisdictional issues in the liquor sector.

It may be possible to reduce the implementation burden on the NLA by simplifying the regulations which it is required to implement. For example, the desirability of requiring a large company such as SAB to have a separate license for each depot and distribution centre may need to be questioned. While it is desirable to have a clear indication of the premises and areas in which a company operates, this can sufficiently be captured under a single licence, without the need for the separate licensing of each premise, which creates an additional administrative burden for the registering authority. This is especially true of the manufacturing and distribution sectors, which are licensed only to sell to other licensed distributors and / or retailers and do not sell directly to consumers. A single licensing system for each business (which is updated to reflect each of the operating premises) rather than licensing per premise may be administratively less burdensome but achieve the same regulatory outcomes.

Clearer requirements for anti-abuse programs could simplify the process of deciding on whether they are adequate. The implementation of online systems may assist in streamlining the application and registration process. However, while there are aspects of regulation that may be simplified, the most pressing issue is that more resources are needed, particularly in terms of enforcement and monitoring capacity, and in order to formalise regulatory monitoring and evaluation systems. Regulatory credibility can be substantially improved by ensuring that the regulator is able to act as a primary data source for the sector, which requires that data on licensee performance be collected and distributed accurately and effectively in areas such as enforcement, licensing, production volumes, and the efficacy of anti-abuse programs.

### ***Improved regulatory collaboration***

The effective regulation of the liquor sector requires that a large number of provincial (as well as municipal) and national bodies (including the NLA, DAFF, SARS, and SAPS) work together as

seamlessly as possible, to coordinate policy responses, share data, and ensure the success of regulatory enforcement activities. Ideally, the first step of dealing with areas of shared jurisdiction is the undertaking of careful regulatory design, to reduce such overlap as may exist. Once legislation is established, however, it is also necessary to have in place mechanisms to deal with potential conflicts.

To this end, it is often useful to include a legal requirement on regulators to conclude memorandums of understanding (MOUs)<sup>84</sup> with other bodies with which they are found to share jurisdiction. An MOU framework in the liquor environment, for example, could set out a shared understanding of when provincial regulators should liaise with SAPS before implementing new regulations, to ascertain whether implementation difficulties are envisaged; or to conduct discussions at national and provincial level as to whether the definition of liquor should be standardised to close regulatory loopholes. MOUs can be a useful means of clarifying and formalising relationships between such entities, and it is not clear that their potential is being fully exploited in the sector.

### ***Standardise key aspects of regulation***

As the regulation of liquor retail is retained as a provincial competency, some variation across provincial and national regulatory schemes is inevitable. However, while such variation is desirable if it allows for innovative regulatory approaches, or allows specific provincial circumstances to be addressed, it does tend to complicate the enforcement environment, and thus is not desirable in and of itself. In other words, in an ideal world there would be considerable similarities between the various provincial legislations, and such disparities as occurred would be based on a clearly articulated policy rationale.

As discussed above, the potential use of MOUs as a regulatory coordination mechanism in the sector should receive more attention. A strengthening of policy development processes in the sector would also be of use. Institutions such as the NLA should have robust policy debates with provinces during their legislative design processes, to try and ensure that the practical implications of regulatory

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<sup>84</sup> MOUs are typically not binding, and simply lay out a shared understanding between parties. An alternative mechanism would be the use of memorandums of agreement (MOAs), which can be made binding. Where the ultimate burden in terms of establishing jurisdiction lies in legislation, however, it is not clear that an MOA between regulators can fully resolve such jurisdictional issues as may arise.

innovations have been properly teased out. Regulatory impact assessment exercises would be ideal as a mechanism to carry out such evaluations.

Because retail regulatory is a provincial competency in terms of the Constitution, attempts to standardise provincial regulatory approaches must depend largely on voluntary provincial cooperation. However, much can certainly still be done at national level to ensure that provinces are required to raise the level of the policy debate, and to justify any non-standardised approach.

A key aspect of the regulation which may be standardised across provinces and nationally without hampering on policy innovation is the definition of alcohol. The standardisation of the way in which alcohol is defined will ensure easier regulatory oversight and reduce any potential loopholes for the production of illicit and dangerous liquor.

### ***Industry anti-abuse programs***

The anti-abuse provisions in the 2003 Act rely heavily on the implementation of anti-abuse programs by manufacturing and distribution licensees. However, the Act and its regulations provide little to no guidance on how the NLA is to assess whether the proposed interventions are sufficient to meet with licensing requirements, and too little is at present done to ensure that such programs are appropriately designed to proportionately address the burden of disease, in an evidence-base fashion.

More oversight is needed in this key area. At a minimum, the requirements on industry to undertake some minimum level of expenditure need to be more clearly laid out, and a means needs to be provided of ensuring that industry programs are appropriately designed and targeted – for example, by requiring that program approval be awarded by a team of independent public health specialists. It may also be worth evaluating whether the responsibility for implementing anti-abuse programs should be removed from industry, and delegated to an industry-funded but industry-independent agency.

Such an agency may be feasibly housed within existing agencies such as the CDA or NLA, or alternatively may be implemented as a new and fully independent agency, comprising representation from the health sector, civil society and government. The latter approach would accommodate the intentions of the original liquor policy by providing a platform for civil society in the liquor industry. The level of funding for such an agency would require careful consideration and

the funding requirements of evidence-based interventions must be balanced against industry concerns, especially given the industry's existing contribution to excise revenue.

### ***Advertising restrictions***

The issue of liquor advertising has become increasingly pertinent, with calls for the banning of liquor advertising in order to reduce liquor abuse and consumption levels. The 1998 liquor policy paper, highlights the need to reduce liquor advertising as part of a holistic approach to reducing liquor abuse, while also ensuring that advertising highlights the harmful effects of liquor. The 2003 act refers only to the need to ensure that liquor is not advertised in a false or misleading manner and does not target minors. The international review of liquor regulations reveals that very few countries have outright bans on liquor advertising. Conversely a number of countries have legal restrictions of varying degrees on the type and medium of advertising allowed, particularly pertaining to the targeting of minors. Given that research suggests little consensus on the link between levels of consumption and advertising a ban on advertising may be more costly than any benefits accruing from reduced consumption leading to lower levels of abuse.

### ***Encourage inclusion of informal retail sector***

The environment in which liquor is consumed plays a big role in the extent of damage caused by alcohol abuse. Issues such as managing over-crowding, ensuring access to ablution facilities and refusing to serve the over-intoxicated have a measurable impact on alcohol abuse outcomes, but can only be dealt with if on-consumption retailers are licensed and properly monitored.

The persistence of the fact that the bulk of South African liquor consumption happens in unlicensed outlets thus continues to be a major impediment to the reduction of alcohol abuse harms. Greater attention needs to be paid to this issue, both to improve access to licensing for illicit shebeeners (for example, by providing licensing support services, or simplifying licensing requirements if possible), and by focusing on areas where regulatory problems in supporting systems (for example, commercial zoning problems in township areas, or the quality and integrity of SAPS staff) are affecting the ability to include shebeeners in the regulatory system.

These issues will take considerable time and effort to deal with, as they have resulted from more than a century of colonial and apartheid systems designed to frustrate formal licensing of liquor outlets in much of the country. No single regulatory initiative is likely to solve the problem. However, resources must continue to be devoted to this area, as the size of the problem means it cannot be

ignored. Specific areas where further attention is needed include the process of establishing commercial zoning in township areas (which will then allow licensed outlets to be segregated from residential areas); and an investigation of whether licensing requirements can be usefully simplified to improve the ease of obtaining a license, without compromising on public health and safety considerations.

Changing the culture of hazardous drinking requires both increasing the safety of drinking outlets in townships, and decreasing the willingness of customers to tolerate unsafe outlets. It is critical that licensed outlets consistently provide a safer drinking environment than unlicensed outlets, in order to increase the desirability of obtaining a license, and provide consumers with real choice in terms of the safety of their drinking environment. Achieving this goal requires adequate monitoring and enforcement of license conditions, including prohibitions on serving minors, for example, and requirements to maintain adequate toilet facilities. Attention therefore needs to be paid to the monitoring and enforcement environment, including training for licensees and police officers, and possibly educational campaigns for customers as regards their rights.

## Appendix 1. International comparison of liquor environments

### A 1.1 Australia

#### A 1.1.1 Introduction

Historically, the consumption of alcohol in Australia has always been relatively high. In the 1830s, Australians consumed an annual average of 13.6 litres of pure alcohol per person. In 1996, Australia was ranked 20<sup>th</sup> in the world in terms of alcohol consumption per capita<sup>85</sup>. Consumption has however declined to 9.99 litres per person, per year in 2010/11 (and has been stable at roughly this level for the last decade)<sup>86</sup>. Whilst the average amount of alcohol consumed per person annually in Australia has not increased or decreased substantially since 2000, researchers have noted that the number of Australians that partake in “drunken” cultures is increasing. In response to the patterns of high risk alcohol consumption that are prevalent in Australia, the government developed the National Alcohol Strategy 2006-2009. This is an initiative designed to tackle a rising culture of binge drinking so that Australia’s drinking cultures could produce healthier and safer outcomes.

Over the past 50 years, the proportion of pure alcohol available for consumption in the form of beer has decreased from 76% to 42%, whilst the proportion of wine has increased from 12% to 37% and spirits (including ready-to-drink beverages) from 12% to 20%. In Australia the ready-to-drink market includes any pre-mixed beverage, such as spirit-based RTDs; ciders; fruit flavoured wines; and fruit flavoured beers (collectively referred to as ready-to-drinks or “alcopops”)<sup>87</sup>.

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<sup>85</sup> Alcohol Strategy 2001

<sup>86</sup> (Alcohol fuelled violence on the rise despite falling consumption)

<sup>87</sup> (The Senate, Standing Committee on Community Affairs, 2008)

**Table 9: Pure alcohol available for consumption ('000 litres)**

	Beer		Wine		Spirits		Ready-to-drink		Total	
	% of total vol. pure alcohol	Per capita consumption of pure alcohol (litres)	% of total vol. pure alcohol	Per capita consumption of pure alcohol (litres)	% of total vol. pure alcohol	Per capita consumption of pure alcohol (litres)	% of total vol. pure alcohol	Per capita consumption of pure alcohol (litres)	Total vol. pure alcohol ('000 litres)	Per capita consumption of pure alcohol (litres)
2006	45%	4.63	34%	3.53	11%	1.16	10%	0.99	170,236	10.31
2007	44%	4.63	35%	3.70	11%	1.15	10%	1.08	177,590	10.57
2008	44%	4.63	35%	3.66	11%	1.18	10%	1.09	181,156	10.56
2009	44%	4.62	36%	3.73	13%	1.30	7%	0.74	182,668	10.4
2010	43%	4.45	37%	3.82	13%	1.28	7%	0.71	184,013	10.27
2011	42%	4.23	37%	3.74	13%	1.32	7%	0.70	182,016	9.99

Source: Australian Bureau of Statistics

## A 1.1.2 Production, consumption and competitive dynamics

### A 1.1.2.1 Beer production

In 1901, the federal government passed the Beer and Excise Act to regulate the making and selling of liquor. The Act also made home brewing illegal. The provisions of the Act resulted in the closure of numerous breweries and consolidations throughout the industry. Currently, the production of beer in Australia is dominated by the Foster's Group, Lion Nathan, and Coopers Brewery. The Foster's Group is a subsidiary of the British-South African firm SAB Miller (the second largest brewing company in the world), whilst Lion Nathan is a subsidiary of the Japanese Brewer Kirin Holdings. Coopers is the largest Australian owned brewing company, with a market share of about 4%<sup>8889</sup>.

<sup>88</sup>(Gibson, 2011)

<sup>89</sup> Alcohol Strategy 2001

Estimates of the market share of microbreweries versus national brewers are varied. In 2008, a Food Week report estimated that approximately 85% of the beer produced in Australia is manufactured by national brewers whilst the remainder was produced by microbreweries<sup>90</sup>. Wilson (2012) however places the market share of microbreweries at 2% (i.e. excluding Coopers)<sup>91</sup>.

IBIS World estimated that in 2011, the Australian beer and malt manufacturing industry made AU\$5 billion in revenue and generated AU\$948.9 million in profit. During the same period, the Foster's Group and Lion Nathan together accounted for 89% of beer volume sales, with Foster's market share at 48% (down from 55% market share in 2006)<sup>92</sup> and Lion Nathan at 41% (up from 37% in 2006)<sup>93</sup>. In recent years, competition from international premium beers (including those brewed under licence in Australia) as well as a switch by drinkers to craft beers, wine and other liquors appears to be weighing down the sales of traditional Australian beers<sup>94</sup>.

#### ***A 1.1.2.2 The production of wine***

In the year ending December 2012 there were 1.62 million tonnes of wine grapes crushed in Australia. Of these 825,000 tonnes were white grapes and 795,500 tonnes were red grapes. Beverage wine production for the same period was 1.23 billion litres. Inventories of wine totalled 1.69 billion litres, of which 90.2% composed of table wine, 4.8% sparkling wine, 3.6% fortified wine, and 1.5% of other beverage wine. Domestic sales of Australian wine had a value of AU\$2.5 billion and accounted for 40.1% of the total wine produced<sup>95</sup>. According to the Wine Institute, Australia is the world's 18<sup>th</sup> largest consumer of wine on a per capita basis<sup>96</sup>.

#### ***A 1.1.2.3 The production of spirits and ready-to-drinks***

The Australian spirits market is estimated to worth AU\$5.2 billion in retail value annually, of which most are imported, with domestic production making up only a small proportion of the market. Rum

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<sup>90</sup>"Aussies drinking less beer - and getting choosier".FoodWeek Online. October 29, 2008. Archived from the original on 2009-04-16.

<sup>91</sup>(Wilson, 2012)

<sup>92</sup>(Bryant, 2011)

<sup>93</sup>(Wilson, 2012)

<sup>94</sup>(Greenblat, VB: the second best cold beer, 2012)

<sup>95</sup>(Australian Bureau of Statistics, 2013)

<sup>96</sup>(Wine Institute, 2010)

is the main spirit manufactured domestically, from sugar cane. Diageo is the largest spirits and RTD producer in Australia, with a third of the market<sup>97</sup>. Other producers include Barcardi Lion, Coca-Cola Amtil, Fosters Group and ILNZ Group Holdings.

Although a large proportion of spirits are imported, some transformation happens domestically as spirits are transformed into ready-to-drink beverages. Spirits that are mixed or blended locally are considered as manufactured in Australia and therefore many of the manufacturers of RTDs are only involved in blending and mixing.

#### ***A 1.1.2.4 Exports and imports***

In 2010/11, Australia exported beer and malt to the value of AU\$426.7 million,<sup>98</sup> equivalent to just under 10% of total beer production. Australia is also the world's fourth largest exporter of wine, exporting approximately 750 million litres a year, or 60% of the total volume of wine produced locally<sup>99</sup>.

#### ***A 1.1.2.5 Competitive dynamics and the reduction of barriers to entry***

Prior to 1901, Australia consisted of a couple of autonomous states. With no reliable land transport network linking the major cities, the only means to transport foods in bulk was by sea. The result was that even large brewers found it difficult to expand beyond their home city. This allowed strong regional brands to emerge with consumers in a particular region remaining "loyal" to the local brewery. However, at present the production and consumption of beer is dominated by national producers.

Some attempts are however being made to foster the growth of smaller regional brewers. Prior to 2012, microbreweries manufacturing less than 30,000 litres received a 60% excise rebate<sup>100</sup>. In the 2012 Federal Budget however, the 30,000 litre cap on production was removed and the maximum rebate available was increased from \$10,000 to \$30,000. All Australian "craft brewers" who are legally & economically independent of another brewery will now be able to access this rebate

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<sup>97</sup>(Greenblat, Diageo woos older drinkers from wine to spirits, 2011)

<sup>98</sup>(Wilson, 2012) (Bryant, 2011)

<sup>99</sup>(Department of Primary Industries, Parks, Water and Environment, 2012)

<sup>100</sup>"Aussies drinking less beer - and getting choosier".FoodWeek Online. October 29, 2008. Archived from the original on 2009-04-16.

regardless of their production. The justification provided by the Government was that such a rebate would assist microbrewers to grow their businesses and compete against the dominance of the large international brewers<sup>101</sup>. Lobbyists for the excise change highlight the role that microbreweries can play in producing sustainable employment in regional and rural Australia as a principle rationale for the initiative.<sup>102</sup>

#### ***A 1.1.2.6 Consumption***

Consumption per capita of pure alcohol has generally fluctuated over the last 50 years. After peaking at 13.1 litres per annum in 1974/5, per capita consumption plateaued for the next 5-10 years before declining to 9.8 litres per person in 1995/6. More recently, per capita consumption increased slightly to 10.6 litres in 2006/7,<sup>103</sup> before once again declining.

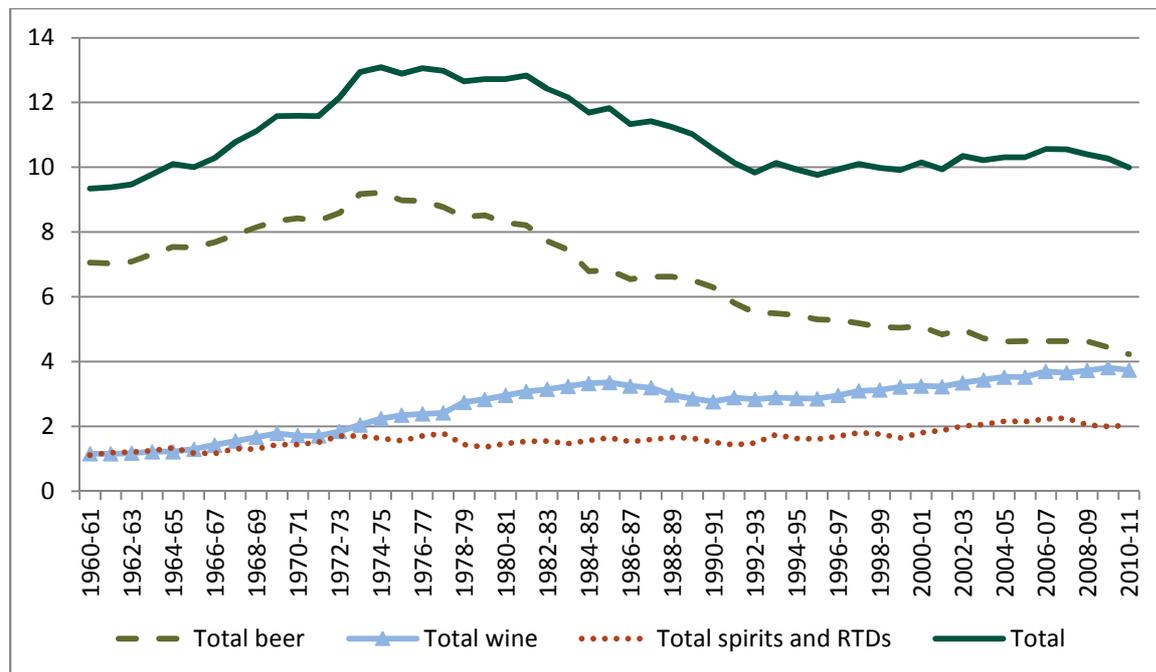
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<sup>101</sup>(Australian Real Craft Brewers Association, 2012)

<sup>102</sup><http://www.brewsnews.com.au/2012/05/budget-delivers-excise-relief-for-brewers/>

<sup>103</sup>(Australian Bureau of Statistics, 2012)

Figure 19: Long run trends in apparent consumption of pure alcohol per capita (litres), 1961-2011



Source: Australian Bureau of Statistics

In 2007, approximately 83% of the population over 14 years considered themselves to be current drinkers, i.e. they had consumed alcohol in the past 12 months. Statistics show a rise in popularity and influence of RTDs, especially amongst females and teenagers. This is attributed largely to the fact that some RTDs disguise the taste of alcohol. **RTDs are therefore used to entice underage drinkers who do not like the taste of alcohol to start drinking** as the taste of alcohol will be masked<sup>104</sup>.

In order to analyse the harmful effects of excessive alcohol consumption, it is often **useful to distinguish the short term (binge drinking) effects from the long term (chronic) effects**. The Australian Health Department notes that more people die from the effects of binge drinking as opposed to long-term chronic effects. The harms associated with binge drinking include deaths, injuries, disease, crime, violence, fires, drowning, verbal abuse, unemployment and family

<sup>104</sup>(The Senate, Standing Committee on Community Affairs, 2008)

breakdown. Deaths from acute causes are most common amongst young adults between the ages of 15 and 29, whilst deaths from chronic diseases are more common among people aged over 45 years<sup>105</sup>.

Between 1993/4 and 2000/1, risky and high risk drinking resulted in 500,000 hospitalisations. The most significant of these were hospitalisations for alcohol dependence (87,186), injuries due to assault (76,115), injuries due to road accidents (47,167), suicide attempts (20,374), and alcohol overdoses (10,094)<sup>106</sup>. For intoxicated individuals the most common cause of death was road accidents such that between 2001 and 2006, approximately 21-27% of all road traffic fatalities involved alcohol<sup>107</sup>.

In a 2008 discussion paper produced by the Preventative Health Task Force, it was reported that alcohol consumption accounted for 3.2% of the total burden of disease and injury in Australia. Whilst this burden is significantly less than the burden contributed by smoking (7.8%) and obesity (7.5%), it is important to note that the reported figure for alcohol is likely to be an underestimation due to the inaccuracy of the calculation method<sup>108</sup>. Alcohol is however linked to over 60 medical conditions, 3430 deaths per year (2008, est.) and 85,435 disability-adjusted life years (DALY) per year.

Heavy drinking during pregnancy is associated with foetal alcohol syndrome. Despite these findings, in 2008, the Preventative Health Taskforce reported that 59% of Australian women drank alcohol at

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<sup>105</sup>“Technical Paper 3: Preventing alcohol related harm in Australia: a window of opportunity” downloaded from <http://www.health.gov.au/internet/preventativehealth/publishing.nsf/Content/tech-alcohol-toc~tech-alcohol-3~tech-alcohol-3.1>

<sup>106</sup>“Technical Paper 3: Preventing alcohol related harm in Australia: a window of opportunity” downloaded from <http://www.health.gov.au/internet/preventativehealth/publishing.nsf/Content/tech-alcohol-toc~tech-alcohol-3~tech-alcohol-3.1>

<sup>107</sup> WHO data - Global Health Observatory Data Repository “Mortality: Road traffic fatalities involving alcohol by country” <http://apps.who.int/gho/data/node.main.A1111?showonly=GISAH>

<sup>108</sup> “Technical Paper 3: Preventing alcohol related harm in Australia: a window of opportunity” downloaded from <http://www.health.gov.au/internet/preventativehealth/publishing.nsf/Content/tech-alcohol-toc~tech-alcohol-3~tech-alcohol-3.1>

some time during their pregnancy, with 14% reporting that they drank five or more drinks per sitting<sup>109</sup>. The exact proportion of women who drink at risky<sup>110</sup> levels during pregnancy is not known.

**Table 10: Deaths and DALYs attributable to alcohol by specific cause (2003)**

Specific cause	Deaths		DALYs	
	Number of deaths	Proportion of total (%)Number	Number of DALYs	Proportion of total (%)Number
Alcohol abuse	918	0.7%	34,116	1.3%
Suicides & self-inflicted injuries	553	0.4%	12,245	0.5%
Road traffic accidents	396	0.3%	11,121	0.4%
Oesophagus cancer	368	0.3%	4,594	0.2%
Breast cancer	184	0.1%	4,152	0.2%
Other	1,012	0.8%	19,207	0.7%
Total harm	3,430	2.6%	85,435	3.2%

Source: Preventative Health Task Force 2008 citing Begg et al, 2005

Alcohol abuse also has significant social effects on Australian communities as an estimated 47% of all perpetrators of assault and 43% of all victims of assault in 2008 were intoxicated. Alcohol abuse is also associated with domestic physical and sexual abuse as it was identified as a contributory factor in 50% of all such cases.

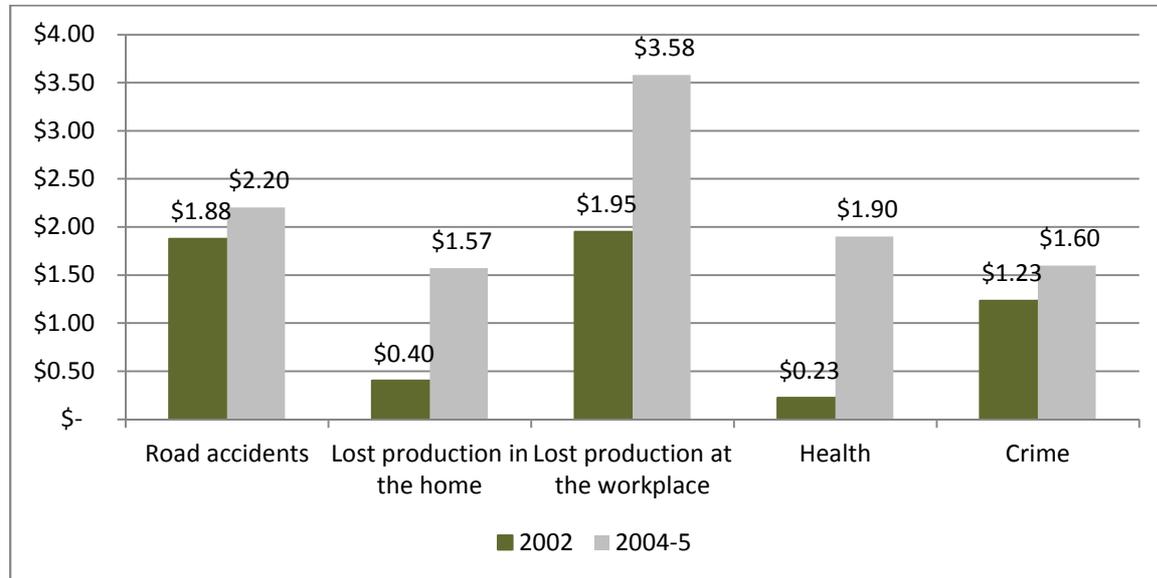
From a financial perspective, the annual cost to Australians of alcohol-related social problems was estimated to be \$7.6 billion (\$5.5 billion tangible) in 1998-99. The greatest costs are borne by workplaces as a result of reductions in the size and capacity of the workforce and worker absenteeism due to alcohol-related issues (see Figure 1). These costs are partly offset by the net

<sup>109</sup>“Australia’s Babies” by Australian Bureau of Statistics (2007) <http://www.abs.gov.au/AUSSTATS/abs@.nsf/0/04FEBEF9C81FE6BACA25732C002077A2?opendocument> released at 11:30 am

<sup>110</sup> The National Alcohol Indicators Project rates drinking levels according to the risk for chronic harm.

government revenue from alcohol related taxes, which is estimated to be \$5.5 billion in 2004/05 (DSICA 2005). The alcohol industry is also a significant contributor to the broader Australian economy, contributing \$18.3 billion in 2004-05, and directly employing 36,000 people and indirectly contributing to the employment of 205,000 people in pubs, taverns and bars (DSICA 2005).

**Figure 1. Annual tangible costs of alcohol abuse, Australia (\$AUD billions)**



Source: Collins and Lapsley (2002) and Preventative Health Taskforce citing Collins & Lapsley (2008)

### A 1.1.3 An overview of Australia’s legislative framework

The most obvious effect that the Federal government has on the liquor market is through its imposition of excise taxes on the manufacture of alcoholic beverages within Australia and imported into Australia. A license to manufacture an excisable product – i.e. alcohol must be obtained from the Australian Tax Office prior to undertaking the following:

- Manufacturing beer
- Manufacturing liqueurs and other excisable beverages
- Distilling spirits
- Conducting the maturation, blending or reduction in strength of spirits
- Denaturing ethanol

Each license is specific to the person or entity conducting the activity as well as the premises from which they shall be conducting such activity<sup>111</sup>. Home-brewed beer (that is produced for non-commercial purposes using non-commercial facilities and equipment) is exempt from excise duty, along with certain spirits used in industrial processes.

Excise taxes are calculated per litre of alcohol – with the volume of alcohol calculated by multiplying the actual volume of the product by its alcoholic strength. For beer, the first 1.15% of alcohol content is free of excise duty<sup>112</sup>. In May 2008, the Minister of Health and Ageing proposed changes to the Excise Tariff Act 1921 and Customs Tariff Act 1995. The proposed changes were to increase the rate of excise and customs duty applied to “other excisable beverages not exceeding 10% by volume of alcohol”. Under the new regime, RTD drinkers would by 2011/12 pay roughly the same amount of excise as beer drinkers. It was expected that such a measure would increase government revenue by AU\$3.1 billion<sup>113</sup>.

**Table 11: Australian alcohol excise rates**

Description of goods		Rate
Beer	Beer not exceeding 3% by volume of alcohol packaged in an individual container not exceeding 48 litres	AU\$38.70 per litre of alcohol calculated on that alcohol content by which the percentage by volume of alcohol of the goods exceeds 1.15
Beer	Beer not exceeding 3% by volume of alcohol packaged in an individual container exceeding 48 litres	AU\$7.73 per litre of alcohol calculated on that alcohol content by which the percentage by volume of alcohol of the goods exceeds 1.15
Beer	Beer exceeding 3% but not exceeding 3.5% by volume of alcohol packaged in an individual container not exceeding 48 litres	AU\$45.08 per litre of alcohol calculated on that alcohol content by which the percentage by volume of alcohol of the goods exceeds 1.15
Beer	Beer exceeding 3% but not exceeding 3.5% by volume of alcohol packaged in an individual container exceeding 48 litres	AU\$24.25 per litre of alcohol calculated on that alcohol content by which the percentage by volume of alcohol of the goods exceeds 1.15
Beer	Beer exceeding 3.5% by volume of alcohol packaged in an individual container not exceeding 48 litres	AU\$45.08 per litre of alcohol calculated on that alcohol content by which the percentage by volume of alcohol of the goods exceeds 1.15
Beer	Beer exceeding 3.5% by volume of alcohol packaged in an individual container exceeding 48	AU\$31.74 per litre of alcohol calculated on that alcohol content by which the percentage by volume

<sup>111</sup>(Australian Taxation Office, 2012)

<sup>112</sup>(Australian Taxation Office, 2012)

<sup>113</sup>(The Senate, Standing Committee on Community Affairs, 2008)

	litres	of alcohol of the goods exceeds 1.15
	Beer not exceeding 3% by volume of alcohol produced for non-commercial purposes using commercial facilities or equipment	AU\$2.72 per litre of alcohol calculated on that alcohol content by which the percentage by volume of alcohol of the goods exceeds 1.15
	Beer exceeding 3% by volume of alcohol produced for non-commercial purposes using commercial facilities or equipment	AU\$3.14 per litre of alcohol calculated on that alcohol content by which the percentage by volume of alcohol of the goods exceeds 1.15
RTDs & Other	Other excisable beverages not exceeding 10% by volume of alcohol	\$76.37 per litre of alcohol
Spirits	Brandy	\$71.31 per litre of alcohol
Spirits	Other excisable beverages exceeding 10% by volume of alcohol	\$76.37 per litre of alcohol
Spirits	Concessional spirits used for certain industrial purposes	Free

Source: Australian Taxation Office<sup>114</sup>

Although the manufacture and importation of liquor into Australia is regulated by the Federal government, the sale and consumption of liquor in Australia is regulated at sub-national level by the various Alcohol Laws of the eight states and territories of Australia<sup>115</sup>. Before becoming a federation in 1901, Australia consisted of a number of separate colonies, each with different laws regulating the production and sale of alcohol. To this day, each State and Territory in Australia has different liquor laws. For retail sales of alcohol, a license obtained from the licensing authority of the State or Territory in which the sale shall occur is required. The Federal government does however regulate the importation of alcoholic beverages into Australia.

The liquor laws in most of the territories have the minimisation of alcohol related harm as their main objective. It therefore follows that in all territories it is illegal to supply a minor (that is under 18 years old) with alcohol, although in territories such as Queensland and Tasmania a responsible adult (i.e. is a parent or legal guardian) may supply a minor with alcohol on a private premises provided that adult supervision is provided. In order to control disorderly conduct at licensed outlets, many of

<sup>114</sup>(Australian Taxation Office, 2012)

<sup>115</sup> The states and territories of Australia are: Western Australia (WA), Northern Territory (NT), South Australia (SA), Queensland, New South Wales (NSW), Australian Capital Territory (ACT), Victoria and Tasmania (TAS)

the acts contain provisions that make it **illegal to serve a drunk person, and allow an outlet to eject** such a person from their premises.

The National Health and Medical Research Council produces non-mandatory national guidelines for alcohol consumption. These guidelines are based on the current and best available scientific research and evidence, in line with a nine-step evidence-based research process as outlined in the NHMRC Act.<sup>116</sup> The guide is based on the standard drink concept where a standard drink is defined as containing 10 grams of alcohol. This has the advantage that consumers do not have to count glasses or containers but can simply add up the number of standard drinks they have consumed as a way to track consumption. Since restaurants and bars do not have the same size glasses, the standard drinks per glass are likely to vary. In such a case, the bar and restaurant staff can help patrons in identifying how many standard drinks are in glasses, jugs, and other containers that are not labelled.

The Federal Government does not regulate the advertising or promotion of liquor, but the Ministerial Council on Drug Strategy established the Alcohol Beverages Advertising Code (ABAC) scheme. This is an industry led initiative that allows the industry to self-regulate all adverts through the **Alcohol Advertising Pre-Vetting Service** (AAPS) provided by the ABAC. The service was first offered in 1992 to beer and spirits advertisers. It was only in 2004 when wine makers joined the AAPS. As part of the review process, an independent panel at the AASP ensures compliance with the code as well as the Advertising Standards Bureau (ASB). ABAC is managed by a committee that includes representatives from<sup>117</sup>:

Brewers Association of Australia and New Zealand

Distilled Spirits Industry Council of Australia

Winemakers Federation of Australia Ltd

The Communications Council Ltd

Government

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<sup>116</sup><http://www.nhmrc.gov.au/guidelines/how-nhmrc-develops-its-guidelines>

<sup>117</sup>(Alcohol Beverages Advertising Code)

In terms of impact, the AAPS rejected outright 11% of proposed adverts in 2005. Since this was at the pre-vetting stage, the adverts were never broadcast or printed. A further 4.5% of proposed adverts were approved only after modifications were made.

**Table 12: Restrictions on advertising alcohol in Australia**

	Beer	Wine	Spirits	Ready-to-drink
Restrictions on advertising on:				
National television	Banned		Banned	
Cable television	voluntary/self-restricted	voluntary/self-restricted	voluntary/self-restricted	
National Radio	voluntary/self-restricted	voluntary/self-restricted	voluntary/self-restricted	
Local radio	voluntary/self-restricted	voluntary/self-restricted	voluntary/self-restricted	
Print media	voluntary/self-restricted	voluntary/self-restricted	voluntary/self-restricted	
Cinemas	voluntary/self-restricted	voluntary/self-restricted	voluntary/self-restricted	
Billboards	voluntary/self-restricted	voluntary/self-restricted	voluntary/self-restricted	
POS	No restriction	No restriction	No restriction	
Internet	voluntary/self-restricted	voluntary/self-restricted	voluntary/self-restricted	
Regulations for:				
Product placement			Yes	
Sponsorship			No	
Sales promotion			Yes	
Licensing of alcohol production			Yes	
Licensing of alcohol production			Yes	

Source: World Health Organisation

#### A 1.1.4 **Interventions made in combating alcohol abuse**

##### ***A 1.1.4.1 National Drug and Alcohol Research Centre (NDARC)***

The Australian Government Department of Health and Ageing currently funds research by NDARC.

Some of the projects that the Centre is currently involved in are:

The first Australian study of the impact that binge drinking has on the brain structure of young adults.

Alcohol consumption and health inequalities

Young people's ideas about responding to alcohol, tobacco and other drug use.

##### ***A 1.1.4.2 "Rethinking drinking: you're in control"***

This is a programme funded by the brewing industry. It comprises a web based alcohol education programme that was established in 1997 as an online resource for parents. Information published on the site is based on research by Melbourne University<sup>118</sup>.

##### ***A 1.1.4.3 DrinkWise Australia***

DrinkWise Australia is a non-profit organisation that was established in 2005 by the alcohol industry. The organisation wants to increase the average age that young Australians are first introduced to alcohol, as well as to promote a healthier and safer drinking culture. DrinkWise therefore conducts national information and education campaigns primarily through television, online and print media. These information campaigns are backed by research and clinical advice. The organisation collaborates with medical experts, public figures and influential Australians<sup>119</sup>. In 2010, DrinkWise developed a labelling initiative that voluntarily requested that liquor producers place labels on their products that would assist consumers to make better choices. The program's main contributors are the Australian Government, food retail chains and the alcohol industry<sup>120</sup>:

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<sup>118</sup> See – [www.rethinkingdrinking.org](http://www.rethinkingdrinking.org)

<sup>119</sup> (DrinkWise Australia)

<sup>120</sup> (DrinkWise Australia)

DrinkWise reports that in a 2009 benchmarking study conducted by Quantum for the “Kids Absorb Your Drinking Campaign” revealed some success in generating behavioural change in drinking patterns.<sup>121</sup>

#### ***A 1.1.4.4 National Binge Drinking Strategy (NBDS)***

In 2008, the Australian Prime Minister announced the new AU\$103.5 million National Binge Drinking Strategy (NBDS) whose aim is to address Australia’s harmful binge drinking culture. The government committed an initial AU\$53.5 million from 2008/8 to 2011/12 for the Department of Health and Ageing to find solutions to the factors that encouraged binge drinking amongst young adults<sup>122</sup>.

Projects funded included<sup>123</sup>:

Community level initiatives conducted through sporting organisations to confront binge drinking

The establishment of an **early intervention program** to assist young adults.

An advertising campaign that informed young people as to the dangers of binge drinking

In 2010, the Government committed a further AU\$50 million over 2010/11 to 2013/14 to expand the NBDS. The expansion of the NBDS was transferred to the Australian Preventative Health Agency<sup>124</sup>.

The 2011 Australian Secondary Students' Alcohol and Drug Survey, prepared for the federal Health Department, found that amongst 12- to 15-year-olds, the prevalence of current drinking had been declining. The survey found that there were bid decreases in binge drinking – defined as more than four drinks in a single session in the previous seven days. Binge drinking had dropped from 23% of students aged 16 and 17 in 2005 to 16% in 2011. Among those aged 12-15, bingeing had halved, from 6% in 2005 to 3% in 2011 . The extent to which this decline in binge drinking may be attributed to the NBDS is open to debate as additional research by Roy Morgan Research found that the

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<sup>121</sup>(DrinkWise Australia)

<sup>122</sup>(Australian Government, Department of Health and Ageing, 2013)

<sup>123</sup>(Australian Government, Department of Health and Ageing, 2013)

<sup>124</sup>(Australian Government, Department of Health and Ageing, 2013)

number of Australians who consume alcohol over a month had been in progressive decline since 2002. The declining trends in drinking habits therefore appear to predate the NBDS .

## A 1.2 Brazil

### A 1.2.1 Liquor production

Brazil's beer market is highly concentrated, with four beer producers effectively responsible for the production of roughly 95% of beer consumption. Brazil's beer production has grown from about 83 million hl in 2000 to roughly 133 million hl in 2011.<sup>125</sup> International conglomerate, and the biggest beer producer in the world<sup>126</sup>, AB InBev accounted for between 65% and 70%<sup>127</sup> of total beer production in Brazil in 2011. AB InBev was formed through the merger of a number of Brazilian beer producers and subsequent consolidation with other international producers in the 2000s (AmBev was created by the merger of major Brazilian brewers Brahma and Antarctica in 1999, and then AmBev and InterBrew (Belgian producers) merged in 2004 to create InBev. InBev and Anheuser-Busch (US-based beer producer) merged in 2008 to form AB InBev).<sup>128</sup> Kirin, a Japanese-based brewer which acquired Brazilian producer in Schincariol in 2011<sup>129</sup>, accounts for roughly 10% of beer production in Brazil. Petrópolis Group, Brazil's last remaining Brazilian-owned beer producer, has a market share of approximately 10%, with the Heineken group accounting for 8% of the market through its eight breweries in Brazil.<sup>130</sup>

Brazil is the fifth largest wine producer in the southern hemisphere, with annual wine production stands at about 3 million hectolitres. Wine exports remain comparatively small at less than one million litres in 2011.<sup>131</sup> Volumes can vary significantly due to the wide climatic variations in the country's grape producing areas.<sup>132</sup> While grape production occurs throughout various regions in Brazil, up to 90% of wine is produced in the Rio Grande do Sul state, due to both historical and climatic reasons. Brazil's wine industry is highly fragmented. It is estimated that the top five

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<sup>125</sup>Based on Barth-Haas Group and GermainHansmaennel (2009) and (2012).

<sup>126</sup> AB InBev is estimated to have produced roughly 19% (based on Barth-Haas Group and GermainHansmaennel (2012)) of the globe's beer in 2011, with this figure likely to have risen after the group's planned acquisition of further beer producers in 2013.

<sup>127</sup> BBII (2012)

<sup>128</sup>AB InBev (2010).

<sup>129</sup> Matsuyama and Matsuda (2011)

<sup>130</sup> BBII (2012)

<sup>131</sup>Based on data from Wines of Brasil.

<sup>132</sup> USDA (2010)

producers accounted for roughly 20% of wine production in 2009<sup>133</sup>, with over 700 wine producing companies in the Rio Grande do Sul alone.<sup>134</sup>

Brazil's spirits industry is dominated by the production of Brazil's national drink, Cachaca, produced from the fermentation of sugar juice. As shown in Figure 20, Cachaca accounts for more than 70% of total spirits production in Brazil. The market is considered relatively fragmented, though the top four Cachaca producers account for roughly 50% of the total market.<sup>135</sup>

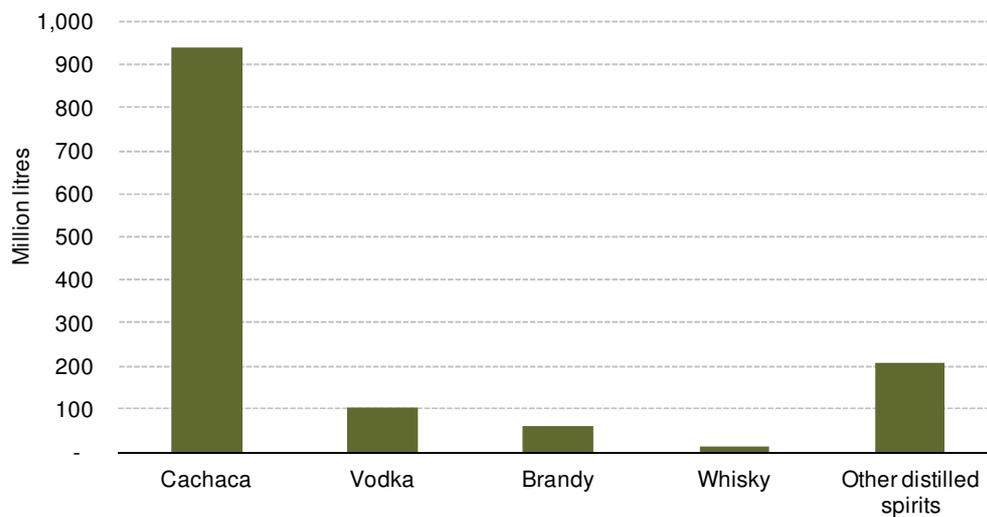
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<sup>133</sup> Clawson et al (2011)

<sup>134</sup> Kianek (2011)

<sup>135</sup> Diageo (2012)

**Figure 20 Brazil production of spirit beverages (2010), Million litres**



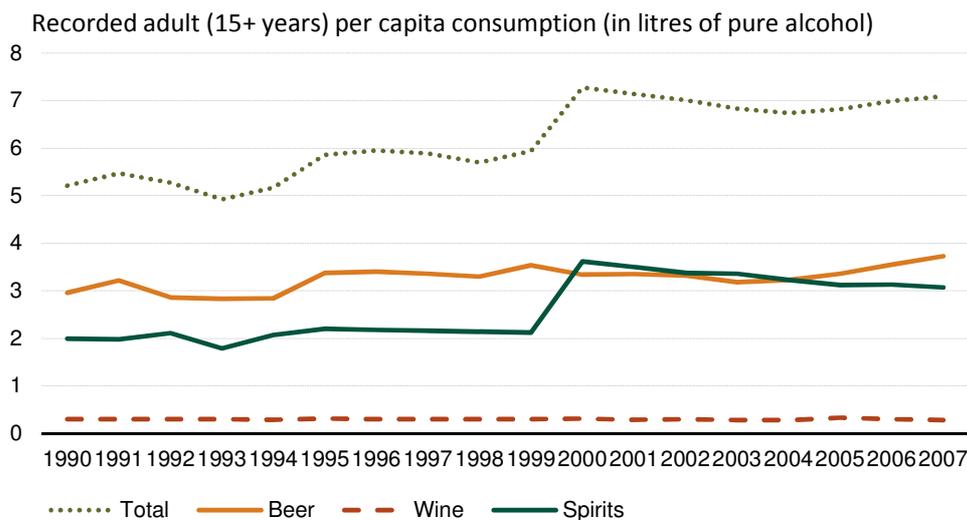
Source: DNA Economics based on data from IGBE

#### A 1.2.2 **Liquor consumption**

In volume terms, beer is the most widely consumed alcoholic beverage, accounting for roughly 90% of total volume consumed (albeit only 53% of pure alcohol consumption), followed by spirits with about 8% volume share (43% pure alcohol consumption). Wine and other lower-volume alcoholic beverages make up the remaining share of liquor sales. Within the spirits category, Brazil's national drink, Cachaca, accounts for 80% of the consumer market by volume.<sup>136</sup> As shown in the figure below, per capita levels of consumption of alcohol, on a pure alcohol basis, peaked in 2000 at just over 7 litres per capita, and have been fairly stable since then.

<sup>136</sup> Diageo (2012)

**Figure 21: Brazil adult per capita consumption of alcohol, by type**



Source: WHO Global Health Observatory Data Repository, available from <http://apps.who.int/gho/data/node.main>

Brazil's annual per capita consumption of beer was estimated at approximately 67 litres in 2011, ranking Brazil among the top 30 per capita consumers of beer globally.<sup>137</sup> Per capita wine consumption is far lower, estimated at less than 2 litres per year, more than ten times lower than both "old world" wine countries and Brazil's neighbouring countries such as Argentina. Nevertheless, Brazil's growing affluence and population together with changing tastes makes the country an attractive market for wine producers around the globe.<sup>138</sup> Imports make up a significant share of total wine consumption, accounting for roughly 20% of total wine consumed in 2011, with wine from Argentina and Chile making up a significant proportion of total imports.<sup>139</sup> The bulk of cachaca production is for local consumption, while a number of premium products (particularly vodka and whisky) are imported.

While socially and culturally acceptable in Brazil, a study by Laranjeira et al (2009) indicates that up to 50% of the population abstain from drinking. Amongst drinkers, drinking patterns vary, though Laranjeira et al (2009) suggest that there is a relatively high proportion of risky behaviour amongst the drinking population, including binge drinking, alcohol abuse and dependence.

<sup>137</sup> Kirin (2012)

<sup>138</sup> USDA (2010)

<sup>139</sup> Own calculations based on data from IBRAVIN, UVIBRA and Wines of Brasil.

### A 1.2.3 **Overview of legislative framework**

The production, distribution and retail of liquor products is subject to few government regulations, with generally lenient enforcement of existing legislation. Brazil has since the early 2000s aimed to introduce revised, stricter legislation, focussing particularly on drink-driving and advertising of liquor.

#### **A 1.2.3.1 Production and retail**

Production of liquor products is not subject to regulation, over and above standard regulations facing other industrial manufacturers in Brazil.<sup>140</sup> The distribution and retail of liquor products is similarly subject to few regulations at the national level, with local authorities able to enforce regulations through municipal bylaws. In the absence of local regulations, alcohol can be sold by any type of retailer without needing to be licensed to do so and liquor products can be purchased at any time of the day and week. Access to liquor is thus considered easy. The sale of liquor products to persons under the age of 18 is prohibited by national law, though under-age consumption of liquor is not prohibited.<sup>141</sup>

In 2008 the Brazilian Congress passed Law 11,705 (commonly known as the *Lei Seca*or “Dry Law”) which prohibited the sale of alcohol by any type of retailer along federal (national) highways, in an effort to curb and combat drink driving.<sup>142</sup>

#### **A 1.2.3.2 Drink-driving**

In addition to restrictions placed on sales of liquor near federal highways, the legislation passed in 2008 also significantly reduced the drink driving limits in place and increased penalties for drink driving offenders. The legal limit for drink driving is an officially stated policy of “zero tolerance” though in practice the limit has been reduced from 0.6 grams per litre of blood (0.06% BAC level) to 0.2 grams per litre of blood (0.02% BAC level), or 0.1 mg per litre of air expelled. Drivers caught over this limit are subject to a fine and can have their driver’s licence suspended for a year. Drivers caught with a BAC level over 0.06% can be arrested and handed prison sentences of between six months and three years.<sup>143</sup>

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<sup>140</sup> Madrugá et al (2012)

<sup>141</sup> Carlini-Coltrim (1999)

<sup>142</sup> WHO (2011)

<sup>143</sup> Andrade et al (2009)

At the beginning of 2013 drink driving legislation was made more stringent, with the passing of Law 12,760. The permissible limit for breathalyser testing was reduced to 0.05 mg per litre of air expelled and the fines for drink driving doubled. Given difficulties associated with the enforcement of drink driving regulations<sup>144</sup>, this law also widens the type of evidence that police may use to prove that drivers had decreased driving ability due to the influence of alcohol or other drugs.<sup>145</sup>

### ***A 1.2.3.3 Advertising and public drinking***

Advertising of liquor is regulated through both self-regulation by the advertising industry and through legislative controls prohibiting the advertising of liquor during certain hours. The advertising industry association has set out standards and guidelines regarding the advertising of liquor across multiple media. In 1996 a federal law was passed regulating the advertisement of alcohol and tobacco. Under this law, television advertisements are restricted to certain hours (before 6am and after 9pm) and a restriction is placed on associating alcohol with sports and driving. However, this legislation only applied to beverages with an alcohol content of more than 13% by volume, effectively excluding beer and wine from the advertising regulations.<sup>146</sup> Since 2007 the federal government has been in the process of producing legislation that changed this definition of alcohol to include wine and beer beverages (by reducing the alcohol content definition to 0.5% by volume) though it is not clear if this has passed the legislative hurdles.<sup>147</sup>

There are no national regulations preventing the consumption of liquor in public places, though a number of states in Brazil have banned the consumption of liquor in sports stadiums in an attempt to combat violence at sporting grounds. These bans often extend to areas around the sports stadiums before and after sporting events.<sup>148</sup>

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<sup>144</sup> Motorists have been able to avoid enforcement by refusing to undergo breathalyser tests, citing an infringement of their constitutional rights.

<sup>145</sup> de Souza (2013)

<sup>146</sup> Pinsky et al (2010)

<sup>147</sup> de Oliveira (2008)

<sup>148</sup> Laranjeira (2012)

## A 1.3 Germany

### A 1.3.1 Liquor production

The German liquor industry contributes almost €14bn in annual revenues to total economic activity, while employing approximately 50 000 employees in just over 12 000 companies.<sup>149</sup> As shown in the table below, the majority of the economic contribution is made by the beer industry, which comprises 56% of total annual turnover, and is also the only segment of the German liquor market to have a positive net exports position. While the wine sector has a large number of companies in operation, they are mostly micro enterprises with very few employees and little turnover. German wine has suffered in export markets from a perception that it is typically cheap and sweet.<sup>150</sup>

**Table 13: Structure of German liquor industry, 2011**

	Number of companies	Number of employees	Turnover (Euro bn)	Employees per company	Turnover per company (Euro billion)	Net exports (in mn bottles*)
Beer	273	27 048	7.85	99.08	0.03	1 578
Spirits	49	3 099	2.37	63.24	0.05	-190
Wine	12 000	17 500	2.75	1.46	0.0002	-1 296
Sparkling wine	63	2 129	0.96	33.79	0.02	
Total	12 385	49 776	13.93	197.57	0.09	

Source: <http://www.bsi-bonn.de/pressebereich/statistiken-und-analysen/statistiken/struktur-der-alkoholwirtschaft>

\* Bottle size differs by beverage type. Beer: 0.5l; Spirits: 0.7l; Wine: 0.75l

The German beer market is characterised by consumers who place high emphasis on quality. As a result, mass-produced beer has a smaller market share than seen elsewhere (less than a fifth of the German market versus half of the global market), and the beer market is highly fragmented and very competitive (not least because per capita consumption of beer is declining, as will be discussed in the next section).<sup>151</sup> This high level of competition may in turn have prompted anti-competitive behaviour. Recent news reports suggest that a range of German brewers, including Carlsberg, AB

<sup>149</sup> Figures as at 2011, from the Bundesverband der Deutschen Spirituosen-Industrie und –Importeure. Available at <http://www.bsi-bonn.de/pressebereich/statistiken-und-analysen/statistiken/struktur-der-alkoholwirtschaft>

<sup>150</sup> Millar, R. 12th May, 2011. *What to do with German Wine?* The Drinks Business. Available at <http://www.thedrinksbusiness.com/2011/05/what-to-do-with-german-wine/>

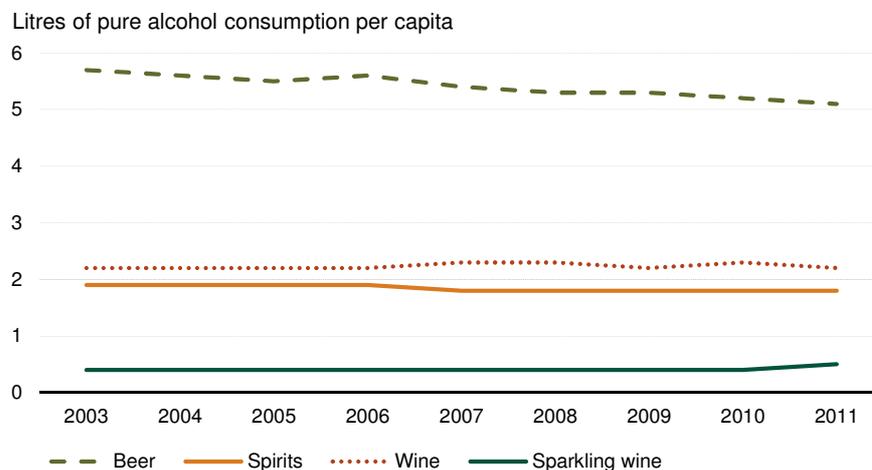
<sup>151</sup> *Oktobergloom*. Oct 7th 2010. The Economist. Available at <http://www.economist.com/node/17204871>

InBev, SABMiller, Warsteiner, Oetker, Erdinger, Bitburger and Krombacher, have been accused by the German Federal Cartel Office of fixing the prices of 24 beer brands, including Beck's, Holsten and Warsteiner. These companies may thus be subject to punitive fines for cartel behaviour in the near term.<sup>152</sup>

### A 1.3.2 Liquor consumption patterns

Per capita consumption of pure alcohol in Germany peaked at around 12.9 litres per person in 1980,<sup>153</sup> and has steadily declined since then. As at 2011, per capita consumption stood at around 9.6 litres per person, as shown in the figure below, with 53% of consumption comprising alcohol in beer. Germany is ranked among the top ten beer-consuming nations in the world on a per capita basis, by the World Health Organisation.<sup>154</sup>

Figure 22: Per capita alcohol consumption, Germany



Source: <http://www.bsi-bonn.de/pressebereich/statistiken-und-analysen/statistiken/pro-kopf-verbrauch-an-verschiedenen-alkoholhaltigen-getraenken-und-verbraucherausgaben>

The table below provides an indication of levels of problematic drinking in Germany. Approximately 3.8% of the population has been assessed to be alcohol dependent, and almost 40% of 15 year-olds

<sup>152</sup> Millar, R. 28th March, 2013. *Beer Giants under investigation in Germany*. The Drinks Business. Available at <http://www.thedrinksbusiness.com/2013/03/beer-giants-under-investigation-in-germany/>

<sup>153</sup> [http://www.gbe-bund.de/gbe10/abrechnung.prc\\_abr\\_test\\_logon?p\\_uid=gastg&p\\_aid=&p\\_knoten=FID&p\\_sprache=D&p\\_suchstring=11545#Kap3](http://www.gbe-bund.de/gbe10/abrechnung.prc_abr_test_logon?p_uid=gastg&p_aid=&p_knoten=FID&p_sprache=D&p_suchstring=11545#Kap3)

<sup>154</sup> <http://www.thedrinksbusiness.com/2012/10/the-worlds-top-beer-consuming-countries/4/>

drink at least weekly. Females are more likely to abstain from alcohol entirely, and less likely to undertake a range of risky drinking behaviours.

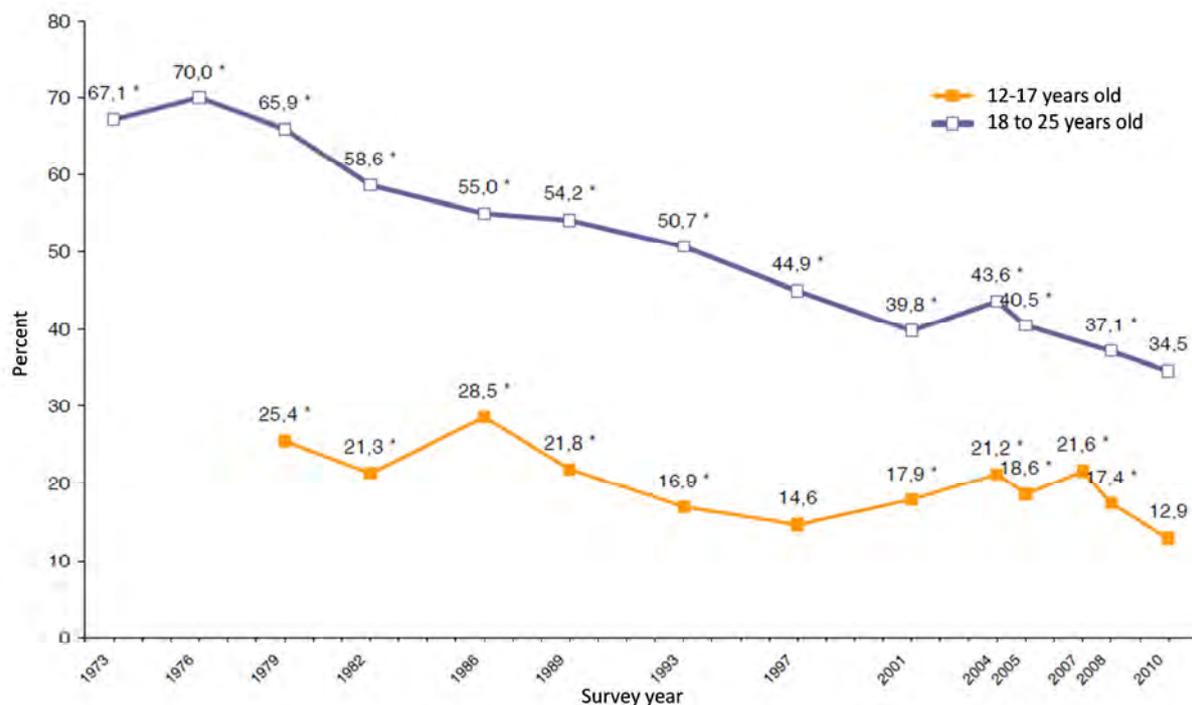
**Table 14: Alcohol use and abuse metrics, Germany, 2000**

	Total	Male	Female
Abstention (last year)	5.1%	4.3%	5.9%
Hazardous alcohol consumption (20 to 40g pure alcohol for women per day, 30 to 60g pure alcohol for men per day)	11.7%		
Dangerous alcohol consumption (40-80g females, 60-120g males)	3.9%	5.7%	2.0%
Heavy drinking (>80g females, >120g males)	0.7%	0.9%	0.6%
Binge drinking occasions as % of all drinking occasions (at least one bottle of wine, 25 centilitres of spirits or four cans of beer)		14.0%	7.0%
Youth drinking (15-year-olds drinking at least weekly)	39.3%	45.7%	33.3%
Alcohol dependence (lifetime prevalence)	3.8%	6.0%	1.5%

Source: WHO country profile, Germany, available from [http://www.who.int/substance\\_abuse/publications/en/germany.pdf](http://www.who.int/substance_abuse/publications/en/germany.pdf)

Good progress has been made in reducing the levels of youth drinking in Germany as well. In both the 12-17 year old age group and the 18-25 year old age group, total consumption of alcohol has approximately halved in the period 1976 to 2010. An uptick in consumption levels in the mid-2000s has subsequently been contained, and as a result youth drinking is at a long term low.

Figure 23: Long term youth drinking trends, Germany



Source: BZgA 2011, 8

### A 1.3.3 Overview of legislative framework

German regulation of the liquor sector is fairly permissive. The age limit for consumption of beer and wine is only 16 (14 if accompanied by a legal guardian), and there are no license requirements or restrictions for retail sellers of alcohol. The permissive age restrictions are associated with quite high levels of youth drinking, with 39% of 15 year olds drinking at least weekly (see Table 7). There are also no licensing restrictions on the production of alcoholic beverages, although laws which are not specific to the liquor sector do affect production conditions.<sup>155</sup> The table below summarises key points of German liquor regulation.

<sup>155</sup>[http://www.eurocare.org/resources/country\\_profiles/germany](http://www.eurocare.org/resources/country_profiles/germany)

**Table 15: Summary of German liquor regulation framework**

Drinking and driving	
Legal limit for blood alcohol	0.5 %
For New Drivers	0 % (for 2 years and for under 21-years old)
For professional drivers	0 % (for passenger transportation, busses and transport of dangerous goods)
Random breath testing	Yes
Restrictions on advertising	
Radio, TV	Youth protection policy restricts the flighting of alcoholic beverage adverts before 6pm. Children and adolescents may not promote the consumption of alcoholic beverages.
Billboards	No
Print media	No
Cinema	Ban until 6 pm
Sales promotions	No
Restrictions at sports events	
Alcohol sports sponsorship	No
Selling of alcoholic beverages	No
Taxation	
Spirits	13.03 euros per litre of pure alcohol
Beer	1.97 euros per litre of pure alcohol
Wine	None
Sparkling Wine	13.60 euros per litre of pure alcohol
Alcopops	55.50 euros per litre of pure alcohol
VAT	0.19
Special taxes	None
Pricing policy	
Minimum prices	No
Cost-covering prices	No

Labelling	
Health warnings	No
Ingredients/nutrition information	No
Youth protection	
Age limits	16 for beer and wine
	18 for spirits
Mystery shopping	Different regulations on regional level; municipalities may undertake mystery shopping with above 18-years old
Selling of alcoholic beverages	
Licence requirement	No
Selling of alcoholic beverages limited to liquor shops	No
Restrictions on locations of sale	No
Restrictions on density of outlets	No
Restrictions on hours/days of sale	Different regulations on regional level
Serving of alcoholic beverages	
Do regulations require that some non-alcoholic beverages are sold more cheaply than the cheapest alcoholic beverage?	Yes, 1 non-alcoholic beverage not more expensive than the cheapest alcoholic beverage
Restrictions on opening hours	Yes, regulations at regional level
Licence requirement	Yes
Restrictions on consumption	
Consumption in public places	No

Source: adapted from Swiss Federal Office of Public Health, available at <http://www.bag.admin.ch/themen/drogen/00039/10172/12019/index.html?lang=en>

#### A 1.3.4 Interventions to reduce alcohol abuse

A key institution involved in the reduction of alcohol abuse in Germany is the BZgA (the Bundeszentrale für gesundheitliche Aufklärung or Federal Centre for Health Education). The BZgA was established by legislation in 1967, as a higher federal authority in the Federal Ministry of Health, and is tasked with health education, including addiction prevention. The BZgA has the autonomy to both

develop and implement the educational strategies it uses, relying on an evidence-based framework for designing such interventions, and conducting research to follow up on whether interventions have in fact proved effective. In its work, it collaborates with state and municipal authorities to achieve desired health outcomes.

An interesting example of a recent abuse-reduction intervention in the German liquor market is the introduction of a special tax on alcopops in 2004. In addition to the existing tax on the spirits, wine or beer contained in alcopops (which ranges from nothing for wine, to 13.60 euros per litre of pure alcohol for sparkling wine), an additional €55.50 per litre of pure alcohol is imposed on alcopops, in terms of the "Act for Improving the Protection of Young People against the Dangers of Alcohol and Tobacco Consumption", which was implemented in August 2004. The explicit purpose of the Act was to reduce the consumption of alcopops by the young, and the available evidence suggests that it was highly successful in achieving this goal.

Alcopops are particularly palatable to the young drinker, as the taste of alcohol is well disguised by the flavourings and sugar used in alcopop recipes. However, patterns of alcohol abuse and consumption by the youth are of particular concern from a policy perspective, as they may establish life-long patterns of problematic consumption. The Act imposed both a prohibition on alcopopconsumption<sup>156</sup> by under-18s, including mandatory labelling as such, and introduced the greatly increased excise duty.

A report<sup>157</sup> produced by the BZgA illustrated that an almost immediate effect on youth alcohol consumption patterns was experienced subsequent to the introduction of the Act. In 2004, 48% of 12-17 year olds sampled had consumed alcopops in the last 12 months, versus only 39% in 2005. Notably, the reduced consumption effect was also felt in 12-15 year-olds, who were not affected by the new age limit imposed by the Act, as they had not in any case been able to consume alcopops legally. Presumably directly as an impact of the increased price of alcopops on affordability,

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<sup>156</sup> Alcopops can be considered the equivalent of ready-to-drink (RTD) or flavoured alcoholic beverages (FABs), and whose ingredients are part spirit, wine or beer mixed with a non-alcoholic drink and served in a pre-mixed format, based on Anderson et al (2012). While different to ciders (which are traditionally made from apples or pears), alcopops are often grouped together with ciders given that they tend to be consumed by similar demographic markets.

<sup>157</sup> BZgA 2005

consumption of alcopops at least once a month in this age group decreased from 20% to 10% between 2004 and 2005.

In addition, consumption of alcohol as a whole during this period did not simply shift from alcopops to other forms of alcoholic beverage. Instead, total alcohol consumption over the period actually decreased, from 31.1 grams of pure alcohol per week in 2004 to 25.9 grams in 2005.<sup>158</sup> This relationship was sustained over the long term, as can be illustrated by the excise collection figures in the table below. In 2011, total excise collections remain below the 2004 level, and the total collections from alcopops have dwindled substantially.

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<sup>158</sup>BZgA 2005, 15

**Table 16: Revenue from the tax on spirits, sparkling wine tax and excise duty on beer, in million €**

Year	Brandy tax	Beer tax	Sparkling wine tax	Other	Alcopop tax	Total
2003	2 204.4	785.9	432.3	28.3		3 450.9
2004	2 194.7	787.4	436.0	27.0		3 445.1
2005	2 141.9	777.2	424.3	27.2	9.6	3 380.2
2006	2 160.3	779.5	420.8	26.4	6.0	3 393.0
2007	1 958.7	756.8	371.4	25.5	2.8	3 115.2
2008	2 125.9	739.5	429.6	27.1	2.7	3 324.8
2009	2 100.9	729.6	445.9	25.7	2.2	3 304.3
2010	1 990.3	712.5	421.5	21.5	2.4	3 148.2
2011	2 149.4	702.2	454.3	15.7	1.6	3 323.2

Source: <http://www.bsi-bonn.de/pressebereich/statistiken-und-analysen/statistiken/einnahmen-aus-der-branntweinsteuer-schaumweinsteuer-und-biersteuer>

## A 1.4 Kenya

Kenya has a substantial domestic beer industry. The largest manufacturer of alcoholic beverages in Kenya is East African Breweries Ltd (EABL), which in turn controls 100% of Kenya Breweries Limited (KBL). At present, EABL is a 50.03% subsidiary of Diageo. In a 2011 transaction, EABL took its stake in KBL from 80% to 100% through acquisition of SAB Miller's 20% shareholding, for a cash consideration of the US dollar equivalent of 19.5 billion Kenyan shillings. In terms of this transaction, KBL terminated its brewing and distribution agreement with SABMiller International BV and ceased to distribute SABMiller's brands in Kenya<sup>159</sup>.

### A 1.4.1 Production

The highest proportion of licensed liquor manufacturers in Kenya are in spirits production. Limited amounts of wine are produced at local vineyards.

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<sup>159</sup>(Diageo, 2011)

**Table 17: Licensed alcoholic beverage manufacturers, 2012**

Beer	Wine	Spirits		
Kenya Breweries Ltd	Fai Amarillo Limited	Aberdares Beverage Limited	Julijo Investment Ltd	Patialla Distillers(K) Ltd
Keroche Breweries Ltd	Kenya Wine Agencies	Africa Spirit Co. Ltd	Kambu Distillers Ltd	Pen Bon (K) LTD
Mashwa Breweries		Afro Prime Industries Ltd	Kedstar Investment	Rhino Beverages LTD
Rhino Beverages LTD		BilFlex Industries	Kefima Suppliers	Sangilia Wine Manuf. LTD
Top Rank Ltd		Biscept Limited	Kenya Gin Manufact. Ltd	The Comrade Invest. Co.LTD
		BMS Industries LTD	Kenya Wine Agencies Ltd	Top Rank Ltd
		Crywan Enterprises Ltd	Keroche Breweries Ltd	UDV (K) Ltd
		Elle Kenya Ltd	London Distillers (k) Ltd	Vine Pack Ltd
		Fai Amarillo Limited	Lumat Company Ltd	Wayne Industries Ltd
		FRM Packers(E.A) LTD	Lyniber Suppliers Ltd	Wholesome Beverages Ltd
		Gish Holding Ltd	Mashwa Breweries	Zheng Hong (K) LTD
		Grand Beverages Ltd	MDI Limited	
		Honeywell Industry	Mibbs Ventures	

Source: Kenya Revenue Authority

#### **A 1.4.1.1 Beer**

The commercial production of beer in Kenya was begun by George and Charles Hurst in 1922 when the two brothers formally incorporated their business as a private company called Kenya Breweries

Limited (KBL). In 1964, KBL acquired an interest in Tanzania's Kilimanjaro Brewery forming what would become the East African Breweries Ltd (EABL)<sup>160</sup> (the Tanzanian operations have subsequently been divested, in 2011). The beer industry in Kenya is highly concentrated, with East African Breweries Limited (EABL) having a market share of at least 90%<sup>161</sup>. When SABMiller entered the market, this resulted in a price war, but eventually SABMiller reduced its involvement in Kenya citing problems in accessing barley<sup>162</sup>.

One of the fastest growing beer brands in Kenya is the Senator Keg that was introduced by EABL. The Senator Keg was introduced in 2004 at a fifth of the price of EABL's mainstream beer Tusker, and the brand has rapidly grown its market share to 40% of the Kenyan beer market. A large part of the success of the brand has been its tax exempt status, which was granted by the Kenyan Revenue Authority in a deliberate attempt to switch consumers away from illicit beverages, by making formally produced beer more affordable. However, the subsequent growth in the success of the brand has prompted calls to reintroduce excises on Senator Kegs.<sup>163</sup>

In 2012, Keroche Breweries claimed that they had a market share of 3%, but expected this to increase after the completion of their new KSh2.5 billion automated beer plant in 2014<sup>164</sup>. Keroche is a Kenyan-owned business, established in 1997 as a family-owned initiative aimed at low income consumers.<sup>165</sup> The planned expansion programme is expected to increase Keroche's capacity tenfold to 100 million litres annually. However EABL is also in turn investing KSh4.3 billion in expanding its Ruaraka-based plant<sup>166</sup>.

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<sup>160</sup> EABL's regional interests include Kenya Breweries Ltd, Uganda Breweries Ltd, Kenya Malting Ltd, and Central Glass Ltd.

<sup>161</sup> (Ellis, K. Singh, R. and Ong'olo, D, 2010)

<sup>162</sup> Note that the EABL's subsidiary Kenya Malting is the sole producers, processor, of barley seed and barley malt in Kenya.

<sup>163</sup> <http://www.businessdailyafrica.com/KRA-targets-keg-beer-to-raise-revenue/-/539546/1670644/-/13222r9z/-/index.html>

<sup>164</sup> (Changole, A. and Gitonga, A, 2012)

<sup>165</sup> <http://www.kerochebreweries.com/about-us/overview>

<sup>166</sup> (Mutegi, M, 2013)

#### **A 1.4.1.2 Wine**

Kenya produces both wine from grapes and traditional pineapple wine locally. Grape wine production is centred in Naivasha, the Yatta Plateau and along the Great Rift Valley Escarpments.<sup>167</sup> The local wine industry is in an early stage of development, but benefits competitively from the high excise duties placed on competing imported products.<sup>168</sup> Domestic levels of wine consumption are also still very low.

#### **A 1.4.1.3 Spirits**

Unlike the experience of sub-Saharan Africa, the Kenyan traditional beverages market includes a culture of distillation of indigenous spirits. This provides additional competition for the formal spirits market, and is likely to predispose customers to be eager consumers of formal spirits.

Kenyan Wine Agencies Limited was established as an importer and distributor of wines and spirits in Kenya in 1969, as part of an indigenisation campaign which excluded foreign importers and distributors from the Kenyan market. It retained a monopoly of the market until liberalisation in 1992/93, and claims to still be the market leader in manufacturing and distribution of wines and spirits in Kenya,<sup>169</sup> although a number of new spirits licensees are in evidence.

#### **A 1.4.1.4 Concoctions**

There are a number of traditional alcoholic beverages that are largely illegally produced in Kenya. Examples of these include malted maize and millet beverages such as chang'aa (which is distilled, and has a 20-50% alcohol content) and busaa; as well as palm wine, muratina, (made from sugar cane and muratina fruit) and banana beer. These cheap illicit beers, wines and spirits have bedevilled the Kenyan market causing illness and sometimes death. NACADA (2007) found that 15% of 15-64 year olds currently consumed traditional brews and spirits such as chang'aa<sup>170</sup>. A later study in 2010 by NACADA also found that in one of the provinces, 74% of the respondents indicated that

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<sup>167</sup><http://www.kenyawines.com/wine-production-in-east-africa/>

<sup>168</sup><http://www.google.com/hostednews/afp/article/ALeqM5jwwSBhk8qNmvZrU517o1UxmGGIYA?docId=CNG.d1c115a6013820b9504cd943c9ab1161.501>

<sup>169</sup>[http://www.kwal.co.ke/index.php?option=com\\_content&view=article&id=48&Itemid=81](http://www.kwal.co.ke/index.php?option=com_content&view=article&id=48&Itemid=81)

<sup>170</sup>(Mwangi, M, 2011)

alcohol produced by local small scale manufacturers was highly available, accessible and affordable<sup>171</sup>.

The traditional alcoholic beverages are however usually poorly monitored for quality and strength and therefore often have harmful impurities and adulterants that cause significant harm<sup>172</sup>. Between April and August 2010, over 50 deaths related to illicit alcohol were reported, along with dozens of cases of alcohol related blindness<sup>173</sup>. In 2000, it was reported that 140 people died and many were blinded and hospitalised after consuming an illegal brew called *kumikumi*<sup>174</sup> in the poor neighbourhoods of MakuruKwaNjenga and MukuruKaiyaba<sup>175</sup>. Kenya's Alcoholic Drinks Control Act 2010 does allow the sale of traditional drinks, but only under regulated health conditions.

#### **A 1.4.1.5 Exports and imports**

Malt beer is one of Kenya's main export commodities to the East African region<sup>176</sup>. Beer exports from Kenya are the third highest in Africa behind South Africa (2,050,000 HL) and Namibia (1,120,000 HL)<sup>177</sup>.

**Table 18: Kenya beer imports and exports, 000's hectolitres (HL)**

	2001	2002	2003	2004	2005	2006	2007
Beer Imports	11	23	25	16	20	20	21
Beer exports	9	50	400	315	355	406	448

Source: International Centre for Alcohol Policies (ICAP)<sup>178</sup>

<sup>171</sup>(Mwangi, M, 2011)

<sup>172</sup> NACADA analysis in 2010 indicated that 68% of alcoholic drinks analysed did not meet the set alcoholic drinks standards (in terms of ingredients, alcoholic content, standards, safety, labelling, certification etc).

<sup>173</sup>(Mwangi, M, 2011)

<sup>174</sup>Kumikumi is an illegal brew that is made from sorghum, maize or millet, and contains methanol and other dangerous additives such as car battery acid and formalin. The drink is popular amongst poor Kenyans living in the country's low income urban and rural areas who cannot afford legal beer.

<sup>175</sup>(World Health Organisation, 2004)

<sup>176</sup>(Export Processing Zones Authority, 2005)

<sup>177</sup>(International Centre for Alcohol Policies, 2008)

<sup>178</sup>(International Centre for Alcohol Policies, 2008)

#### ***A 1.4.1.6 Competitive dynamics and the reduction of barriers to entry***

In spite of EABL's dominance of the Kenyan market for alcoholic beverages, in recent years a number of major international brands (i.e. SABMiller, Heineken and independent spirits importers) have managed to enter the market. SABMiller sold its stake in KBL back to EABL and withdrew KBL's license to manufacture SAB Miller branded beverages in Kenya. SAB Miller opted instead to focus on its operations in Tanzania and exporting its brands into Kenya. This suggests that the process of market entry is not too challenging.

Keroche Breweries has expressed their concerns that the manner in which regulations have been imposed on the industry has at times created unfair advantages for some manufacturers over others. For example, the ADCA (2010) gave manufacturers only six months to change from PET bottles to glass bottles. This arguably gave an unfair advantage to EABL, whose beverages are sold in glass bottles produced by its subsidiary Central Glass Limited<sup>179</sup>.

#### ***A 1.4.1.7 Consumption***

A 2013 report stated that the Kenyan market was the third largest consumer of alcohol in Africa, behind Nigeria and South Africa. Although alcohol has been consumed for many years in Kenya, the quantity and patterns of alcohol consumption have changed significantly over the past 50 years. One of the most important of these changes has been a partial shift from traditional beverages to industrial beverages – particularly commercially produced beverages<sup>180</sup>.

A Rehm and Gmel (2001) estimated that the volume of unrecorded consumption in litres of pure alcohol per capita for the population older than 15 was 5.0 litres<sup>181</sup>. The 2011 Global Status Report on Alcohol and Health reported that recorded adult per capita alcohol consumption was 1.64 litres per annum, whilst unrecorded consumption was estimated as 2.50 litres<sup>182</sup>. If correct, this suggests that formal data on consumption of alcohol misses most consumption – as shown in the figure below, formal World Health Organisation statistics in 2008 found adult per capita pure alcohol

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<sup>179</sup> It is important to note that the weight of glass bottles versus PET bottles increases the terrestrial distribution costs substantially such that it only makes financial sense if the glass bottles are recycled. A recycling process however requires that a manufacturer sells a certain minimum volume for this to be more efficient than using new glass bottles.

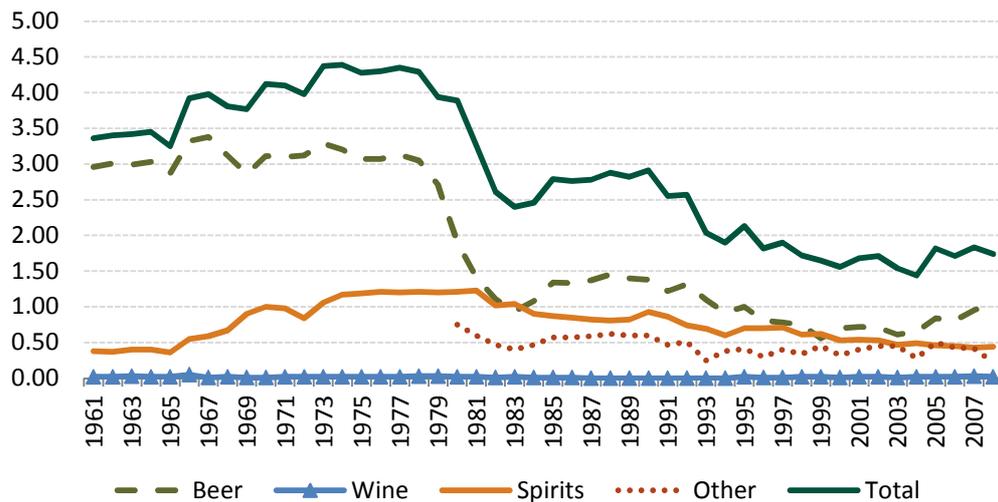
<sup>180</sup>(Riley, L. and Marshall, M, 1999)

<sup>181</sup>(Rehm, J & Gmel, G. eds, 2001)

<sup>182</sup>(World Health Organisation, 2011)

consumption of only 1.74 litres. If unrecorded consumption is driven by the traditional beverage market, this would suggest that the bulk of Kenyan consumption is still of traditional beverages. However, while a 2007 study by NACADA found that 39% of Kenyans aged 15-65 years have used one type of alcohol or another, only 13% reported that they are current users of non-traditional alcoholic drinks<sup>183</sup>.

Figure 24: Long run trend in consumption of alcohol per capita (litres), 1961-2008



Source: World Health Organisation

N.B.: Per capita refers to recorded adult (15+ years) per capita consumption of pure alcohol

As shown in the figure above, formal data on the consumption of alcohol suggests that total alcohol consumption has increased somewhat in recent years, from a low of 1.44 litres per capita in 2004 to 1.74 litres in 2008. This trend seems to be on-going - despite the introduction of tough new laws in 2010, Kenyans consumed 601 million litres of alcohol in 2011, some 30 million litres more than the previous year<sup>184</sup>. However, it is not clear to what extent this represents an increase in per capita consumption, rather than a switch from informal to formally produced alcohol. It should be noted that in the figure above, the entirety of the increase in consumption is driven by an uptick in beer consumption, from 0.65 litres per capita in 2004 to 1.06 litres in 2008. This may be associated with

<sup>183</sup>(Mwangi, M, 2011)

<sup>184</sup>(Gathura, G and Fortunate, E, 2012)

the introduction of excise-exempt Senator Beer in 2004, in a deliberate attempt to switch consumers from informal to formal sources of alcohol.

The Nairobi Urban Slum Survey showed that adolescent males are five times more likely to consume alcohol than females. The study also revealed that being out-of-school increased the risk of alcohol abuse. A 2007 survey by NACADA revealed that the most abused alcoholic beverages were illicit brews packaged in plastic bottles. The survey also showed that amongst respondents between the ages of 15 and 64, those that lived in rural areas were more likely to have consumed chang'aa (15.9%) in the last month than those in urban areas (13%)<sup>185</sup>.

#### A 1.4.2 **An overview of Kenya's legislative framework**

The Alcoholic Drinks Control Act (ADCA) 2010 repealed the Chang'aa Prohibition Act, and the national Liquor Licensing Act. The objective of the Act was to provide for the regulation of production, manufacture, sale, labelling, promotion, sponsorship and consumption of alcoholic drinks. The Act also seeks to mitigate the negative health, social and economic effects of the abusive consumption of alcohol. Despite the introduction of these tougher new laws, the total amount of alcohol consumed by Kenyans appears to be increasing.<sup>186</sup> Nacada research suggests that this may be because the enforcement of the liquor laws has not been very strict, especially in rural areas.<sup>187</sup>

##### ***A 1.4.2.1 Production/distribution regulation***

Section 8 of the ADCA established the District Alcoholic Drinks Regulation Committee to oversee the licensing of outlets that sell alcohol. Hours of operation for premises licensed to sell alcohol would be restricted to 05:00hrs to 23:00hrs from Monday to Friday for general retailers and restaurants. For weekends and public holidays, these premises would be allowed to sell alcohol from 14:00 till 23:00hrs. Supermarkets on the other hand can sell alcohol any day of the week from 10:00hrs till 20:30hrs, whilst hotels would have no restrictions at all<sup>188</sup>. The ADCA also requires the demarcation of the alcohol selling points in supermarkets and other chain stores<sup>189</sup>.

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<sup>185</sup>(National Campaign Against Drug Abuse Authority, 2007)

<sup>186</sup>(Gathura, G and Fortunate, E, 2012)

<sup>187</sup>(National Authority for the Campaign Against Alcohol and Drug Abuse, 2012)

<sup>188</sup>(Mwangi, M, 2011)

<sup>189</sup> See – Section 12 of ADCA (2010)

Pursuant to Section 90(1) of the Customs and Excise act, it is an offense to manufacture alcoholic beverages without an Excise License issued by the Commissioner of Domestic Taxes. It is therefore also an **offense** under Section 185(iii) of the same Act **to be in possession of, purchase or consume alcoholic beverages manufactured and sold by an unlicensed manufacturer.**

#### ***A 1.4.2.2 Retail regulation and restrictions on alcohol consumption***

The ADCA (2010) specifically targets a reduction in underage drinking by making the sale of alcohol to persons less than 18 years old punishable by fines not exceeding KSh 150,000 or imprisonment for a term not exceeding a year, or both. Section 24(1) of the ADCA specifically makes the **supply of alcohol to minors illegal** and hence in this respect goes further than the previous Act which simply forbade sales. Furthermore, the Act states that no licences will be granted to outlets selling alcohol within 300 meters of any learning institution for persons below the age of 18.

In order to minimise the harm caused by binge drinking, Section 22 of the ADCA allows the operator of a licensed outlet to refuse entry or expel a person who is drunk, disorderly or violent. Furthermore, **selling alcohol on credit is also prohibited** under Section 23 of the Act.

#### ***A 1.4.2.3 Restrictions on advertising and sponsorship regulation***

The ADCA contains provisions that regulate the labelling and packaging of alcoholic beverages with the aim of increasing consumer awareness. Similarly, vulnerable persons (such as minors) are protected from deceptive promotion of alcoholic drinks<sup>190</sup>.

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<sup>190</sup>(Mwangi, M, 2011)

**Table 19: Restrictions on advertising**

	Beer	Wine	Spirits	Ready-to-drink
Restrictions on advertising on:				
National television	Partial statutory restriction	No restriction	Partial statutory restriction	
Cable	Partial statutory restriction	No restriction	Partial statutory restriction	
National Radio	Partial statutory restriction	No restriction	Partial statutory restriction	
Local radio	Partial statutory restriction	No restriction	Partial statutory restriction	
Print media	Partial statutory restriction	No restriction	Partial statutory restriction	
Cinemas	Partial statutory restriction	No restriction	Partial statutory restriction	
Billboards	Partial statutory restriction	No restriction	Partial statutory restriction	
POS	Partial statutory restriction	No restriction	Partial statutory restriction	
internet	No restriction	No restriction	No restriction	
Regulations for:				
Product placement			No	
Sponsorship			No	
Sales promotion			No	
Licensing of alcohol production			Yes	
Licensing of alcohol production			Yes	

Source: World Health Organisation

#### **A 1.4.2.4 Excise duty**

Keroche argues that frequent changes in the tax regime created an environment of uncertainty within the industry<sup>191</sup>. In 2009, the duty on spirits was dramatically increased from KSh7 per 1% of alcohol per litre to KSh120 or 65% of value, whichever is higher. The duty on wines was also increased from KSh7 per 1% of alcohol per litre to KSh70 or 50% of value, whichever is higher. Although the government's stated intention was to make portable spirits and wines more

<sup>191</sup>(Nation, 2012)

affordable, the new tax measures imposed an unfair burden on the producers of high-end spirits and wines<sup>192</sup>. Contrary to the government’s policy objective of reducing trade in illicit alcoholic beverages, the price increases due to the tax policy would in all likelihood encourage more consumers to switch to illicit alcoholic beverages.

**Table 20: Alcoholic beverages liable for excise duty**

Description	Rate of Duty in Kenyan Shillings
Malted beers	Kshs. 54 per litre
Beer not made from malt	Kshs. 45 per litre
Wine	Kshs 70 per litre or 50% of the excisable value
Spirit	Kshs 120 per litre or 65% of the excisable value

Source: Kenyan Revenue Authority<sup>193</sup>

### A 1.4.3 Key interventions in combating alcohol abuse

#### A 1.4.3.1 National Campaign Against Drug Abuse Authority (NACADA)

Under Section 4 of the ADCA (2010) the government undertakes to research, document and disseminate relevant information on alcoholic beverages. NACADA is a government initiative launched in 2007 whose mandate is to coordinate a multi-sector effort to prevent, control and mitigate the harm caused by alcohol and drug abuse. One of the major objectives of the agency is therefore to conduct research on various aspects of alcohol and drug abuse and chemical dependence.

#### A 1.4.3.2 The Alcoholic Drinks Control Fund

This Fund was established under Section 5 of the ADCA. The Fund draws its funds from licenses and fees payable under the Act. The Fund will be used to support research, documentation and the dissemination of information on alcoholic drinks, as well as promoting national cessation programs for individuals who are dependent or addicted to alcoholic drinks. At least 50% of the fund’s annual

<sup>192</sup>(Onyango, J, 2009)

<sup>193</sup>(Kenyan Revenue Authority, 2012)

income must be used to assist the operations of District Committees, and at least 15% for civil society programs.<sup>194</sup>

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<sup>194</sup> (Ministry of Provincial Administration and Internal Security, 2011)

## A 1.5 Mexico

### A 1.5.1 Liquor production

Mexico, especially in the context of being a developing country, is a large player in the world liquor market and is the only developing nation in the world that is a top ten exporting country of both spirits and beer. Beer and spirits dominate the market, comprising around 75% and 20% of pure alcohol consumption respectively, while wine is produced in very low volumes, constituting approximately 1-2% of total pure alcohol production.<sup>195</sup> Beer production in Mexico is dominated by two international conglomerates (Heineken International and Anheuser-Busch (AB) InBev, which respectively acquired the two local beer brewers in Mexico), and which effectively account for 99% of beer production in Mexico.<sup>196</sup>

Tequila is Mexico's "national drink" and there are approximately 900 different varieties of Tequila produced in Mexico. As a means of further competing with other spirits such as rum and vodka, producers have recently started producing flavoured tequilas.<sup>197</sup> There are over 120 tequila producers in Mexico, with over 12,000 agave farmers (the plant used in the production of tequila). Nevertheless, there is a fairly high degree of market concentration, with roughly four firms estimated to control roughly two-thirds of the tequila production market.<sup>198</sup> Another spirit that plays a large role is Mezcal, which is a product of the agave plant and water. There are 150 different brands that produce this drink and two million litres were produced in 2009. Not all of it is consumed domestically as 500 000 litres were exported to countries such as New Zealand, Australia, China, Russia and the United States in 2009.<sup>199</sup>

In 2010 there were 156 new alcoholic beverage launches in Mexico. Tequila launches represented 28%, of these followed by beer at 27%, highlighting the dominance of beer and tequila in Mexico's liquor market.<sup>200</sup> Malt-based beer is the leading liquor export in Mexico at 67.32%, with spirit exports constituting the rest of total liquor exports.

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<sup>195</sup> World Health Organisation (2002)

<sup>196</sup> Vargas-Hernandez (2012)

<sup>197</sup> International Market Bureau(2011)

<sup>198</sup> Bowen (2008)

<sup>199</sup> International Market Bureau(2011)

<sup>200</sup> International Market Bureau(2011)

Local production of wine is dominated by three large producers, and a large proportion of the wine consumed in Mexico remains imported. Mexico's wine exports only represent a mere 0.17% of its total liquor exports. As Mexicans have historically not had a particular taste for domestic wine, there has not been great effort put into starting or maintaining vineyards. As a result of strategic marketing campaigns however, the domestic wine market has improved over the last couple of years.<sup>201</sup> Wine consumption is increasing, but mostly imported wines with European exports constituting at least half of all wine consumed in Mexico. It is suggested that the awareness regarding the health benefits from moderate consumption has swayed this generation towards wine.<sup>202</sup>

Alcoholic beverages are sold mainly by independent specialist or large distribution retailers. Hyper/supermarkets have in recent history increased their dominance of the liquor market in Mexico and continue to do so. These retailers are able to buy in bulk and therefore offer discounts that smaller retailers cannot compete with. This is especially applicable to lower-priced beer products. Premium beers, wine and spirits are sold at independent retailers and are less affected by these large retailers as the consumers tend to be more affluent and are therefore able to value quality highly.<sup>203</sup> Wal-Mart dominates the large retailer market followed by Soriana which also has hypermarkets and superstores, with convenience stores also playing a role in the retail of liquor products.<sup>204</sup>

#### A 1.5.2 **Liquor consumption**

As shown in the figure below, the bulk of alcohol consumption in Mexico is via beer. Demand in the beer market is predominantly driven by the younger segment of the population. In 2011, Mexico was the 10th largest beer consumer in the world. Even though tequila is the main spirit consumed in Mexico, representing 48% of all alcoholic drinks sold in 2010, brandy; and cognac still constituted 22% of sales.<sup>205</sup>

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<sup>201</sup> International Market Bureau(2011)

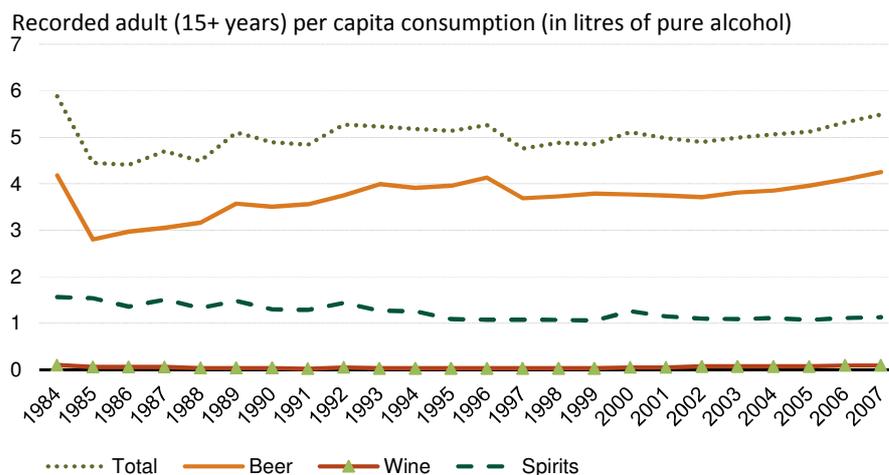
<sup>202</sup> International Market Bureau(2011)

<sup>203</sup> International Market Bureau(2011)

<sup>204</sup> International Market Bureau(2011)

<sup>205</sup> International Market Bureau(2011)

**Figure 25: Mexico adult consumption of alcohol**



Source: WHO Global Health Observatory Data Repository, available from <http://apps.who.int/gho/data/node.main>

Consumption of approximately 5 litres of pure alcohol per capita is recorded in Mexico, but unrecorded consumption is estimated to comprise another 3.4 litres per capita. 4.13% of males and 0.21% of females are estimated to have alcohol use disorders, and 12.6% of males and 2.9% of females are regarded as heavy episodic drinkers.<sup>206</sup>

### A 1.5.3 Overview of legislative framework

In 1917, the Mexican constitution was drafted and included an obligation of writing up a “Program Against Alcoholism”. As a means of curbing alcohol consumption, the constitution asked for the forfeiture of a citizen’s human rights as a consequence of habitual drunkenness.<sup>207</sup> By the 1950’s the problem of alcohol had progressed so far that government found it necessary to ban the consumption of alcohol completely in Mexico City. This intervention proved to be rather unsuccessful as the liquor retail operations simply moved to the periphery of the city in order to continue their business. These laws were soon lifted once it was noticed that they had no material effect, and current legislative approaches are substantially more permissive.<sup>208</sup>

<sup>206</sup> [http://www.who.int/substance\\_abuse/publications/global\\_alcohol\\_report/profiles/mex.pdf](http://www.who.int/substance_abuse/publications/global_alcohol_report/profiles/mex.pdf)

<sup>207</sup> Medina-Mora (2007)

<sup>208</sup> Medina-Mora (2007)

#### ***A 1.5.3.1 Production and retail***

The production of Tequila has historically been regulated through both national geographic indications (GI) legislation and standards relating to the production of tequila in Mexico.<sup>209</sup> The Mexican government has subsequently introduced laws that have regulated where and when liquor can be sold for both on- and off-consumption purposes. These laws regulate the distance that alcohol retail outlets were permitted to be from schools and work places and set a minimum age for buying alcohol or entering establishments where alcohol is served (minimum age of 18). However, rapid urban growth and a lack of enforcement has meant that despite the existence of these regulations, offenders often go unpunished. Licensing for retail sale of liquor is derogated to state or local authorities and licensing criteria therefore vary by state.<sup>210</sup>

#### ***A 1.5.3.2 Drink-driving***

Unlike many other countries, each state/municipality in Mexico sets its own maximum Blood Alcohol Concentration (BAC) allowed for drivers, with some states yet to legislate a maximum blood alcohol level. It is however national policy that random breathalyser tests are done on federal roads, which is a practice encouraged by local municipalities, though enforcement is not as strong as desired due primarily to capacity constraints. Penalties do not vary according to the value of BAC, but rather according to the number of other offences committed while under the influence. Repeat offenders and public drivers are also punished more severely.

#### ***A 1.5.3.3 Advertising***

Advertising of liquor products is permissible but restricted to prevent the advertising of liquor products to underage drinkers. All radio and television advertising must be approved by the Ministry of the Interior, and alcohol advertisements are prohibited between 5am and 10pm. In addition, **children may not be used in marketing** of products and restrictions apply to the marketing of liquor products in close proximity to schools as well as the advertising of liquor products at cinemas.<sup>211</sup>

#### **A 1.5.4 Interventions to reduce alcohol abuse**

In 1985, the National Health Law was formulated using the guideline set out in the Public Health Conceptual Framework. The national Program against Alcoholism and the Abuse of Alcoholic

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<sup>209</sup> Brown (2008)

<sup>210</sup> Medina-Mora (2007)

<sup>211</sup> Arochi et al (2005)

Beverages was based on this law and a result of very wide consultations with a plethora of interest groups. It led to the establishment of a National Board against Addictions which in turn led to the formation of addiction boards at state and municipal level. These programs are updated regularly, but special effort is made not to stray from the original conceptual framework.<sup>212</sup>

Part of the national program was an attempt to regulate the industry by controlling the price of alcohol and keeping the amount of retail and production licenses to a minimum, though significant lobbying by the liquor industry has watered down the extent to which these policies have translated into legislation. Producers and retailers have had some success in ensuring that taxation levels have not increased to the levels desired by health and policy experts in Mexico.<sup>213</sup>

The private sector, through the National Chamber of the Beer and Malt Sector (a private industry association) has a “safe-drinking” policy in place, with public campaigns especially targeting drink driving in Mexico. The chamber is also involved in the promotion of education regarding the harmful use of alcohol. Other initiatives that industry are involved in is the “Designated Driver” campaign, the “Responsible Waiter” campaign, the “How to talk to your kids about alcohol” campaign and the “No alcohol to minors” campaign.<sup>214</sup>

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<sup>212</sup> Medina-Mora (2007)

<sup>213</sup> Medina-Mora (2007)

<sup>214</sup> Worldwide Brewing Alliance (2008)

## A 1.6 Sweden

### A 1.6.1 Liquor production

The Swedish liquor industry comprised domestic sales of SEK43.4 million in the 2009 financial year<sup>215</sup> (spirits, wine and strong beer only). In the beer and wine industry, domestic production is insufficient to meet domestic demand, and Sweden runs annual export deficits in these types of liquor, as shown in the table below. However, Sweden is a net exporter of spirits, with net exports having risen to almost three quarters of domestic production in recent years. The most important Swedish spirits export product is Absolut Vodka.<sup>216</sup>

**Table 21: Production and net exports of alcoholic beverages, million litres**

	Spirits	Net exports	Wine	Net exports	Strong beer *	Net exports
1995	59	27	48	-105	457	-9
1996	66	34	40	-109	168	-14
1997	64	37	47	-114	169	-18
1998	70	42	58	-87	191	-16
1999	74	47	54	-109	199	-17
2000	81	..	48	-123	207	..
2001	80	54	42	-96	203	-17
2002	82	52	42	-115	226	-15
2003	87	60	44	-131	233	-26
2004	88	65	43	-133	221	-33
2005	95	63	43	-124	229	-25
2006	101	71	58	-133	255	-28
2007	107	83	66	-169	276	-14
2008	108	79	70	-118	283	-8
2009	96	71	83	-97	288	-23

Source: Swedish National Institute of Public Health, 2010, Alcohol Statistics 2009

\* greater than 3.6% alcohol by volume

In the beer industry alone, as at 2010 approximately 40 companies were in operation (including microbreweries), employing approximately 4 000 individuals.<sup>217</sup> The largest beer producer in Sweden is the Carlsberg group, which is of Danish origin, but acquired the largest Swedish beer producer (Pripps) in 2004. Carlsberg has a Swedish market share of 33%.<sup>218</sup>

<sup>215</sup>Swedish National Institute of Public Health, 2010, Alcohol Statistics 2009, 36

<sup>216</sup>Karlsson&Österberg 2002

<sup>217</sup> Brink et al 2011, 233

<sup>218</sup><http://www.carlsberggroup.com/Markets/WE/Pages/Sweden.aspx>

A key concern for the domestic liquor industry in Sweden is the strong incentive placed on consumers to import/smuggle liquor for domestic consumption, created by the big differences between alcohol taxes in the region. As at 2003, a bottle of Bells Extra Special Scotch retailed for approximately the following price in the following four countries:

- Nkr270 (\$38) in Norway
- Nkr225 in Sweden
- Nkr117 in Denmark
- Nkr90 in Germany.<sup>219</sup>

The 60% discount on the same product in Germany, as opposed to Sweden, makes it highly attractive to Swedish consumers to import as much as possible from countries such as Germany. This kind of price discrepancy, and thus the resulting import incentive, holds in most kinds of alcohol in Sweden. For example, the Swedish Brewers Association estimates that in 2010, a total of 89.1 million litres of beer entered into Sweden via cross border trade, of which 52.3 million litres was for legitimate personal use, and 36.8 million litres was contraband intended for onsale.<sup>220</sup>

Historically, retail off-license trade in liquor has been reserved as a monopoly by the Swedish state, as part of its measures to control the abuse of alcohol. This restriction has been weakened by generous personal import limits on liquor since Sweden joined the EU. As a result, some degree of import competition to the state off-license retail monopoly, Systembolaget, has been introduced. As at 2008, it was estimated that Systembolaget's market share had fallen to only 57% of the off-license retail market, due to greater prevalence of imported/smuggled goods.<sup>221</sup>

#### A 1.6.2 **Liquor consumption patterns**

Historically, Swedish drinking patterns have been characterised by high proportions of spirits consumption. As shown in the figure below, in the mid to late 1970s spirits comprised around 50% of all alcohol consumed on a per capita basis. The bulk of remaining consumption was then comprised of beer with an alcohol content below 3.6% (as distinguished from "strong beer", with greater alcohol content). Both these consumption patterns have changed markedly in recent years. Spirits

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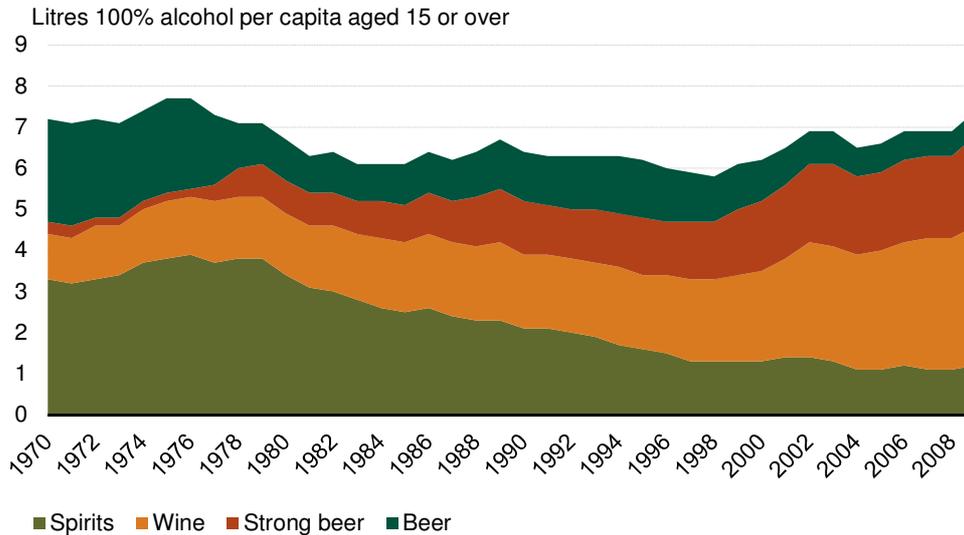
<sup>219</sup>The Economist. Viking binge: How Europe's single market makes boozing cheaper. November 13th 2003.

<sup>220</sup><http://sverigesbryggerier.se/olfakta/uppskattad-inforsel-2008/>

<sup>221</sup>Arnberg& Lord 2009, 5

now comprise only around 16% of consumption, and weak beer only 9%, while wine and strong beer have risen to 45% and 29% of the market respectively. Formal estimates also suggest that total consumption of alcohol per capita has increased somewhat over the last few years, from a low of 5.8 litres per capita in 1998 to 7.4 litres in 2009 (a 28% increase).

**Figure 26: Swedish consumption of alcohol per beverage type, litres 100 % alcohol per capita aged 15 or over**



Source: Swedish National Institute of Public Health, 2010, *Alcohol Statistics 2009*

Research commissioned by an industry association suggests that the primary reason for this increase in alcohol consumption has been “the substantial increase in personal imports by travellers and smuggling from other countries with significantly lower alcohol taxes than Sweden.”<sup>222</sup> Furthermore, industry has argued that this can be interpreted as reflecting the fact that the Swedish authorities are losing control of the regulatory environment in Sweden, and that the highly taxed, strictly controlled Swedish regulatory model is fundamentally flawed. This position is by no means accepted by the Swedish regulatory authorities, however.

Historically, the Swedish pattern of alcohol consumption has comprised a particularly unhealthy behaviour of binge-drinking on weekends, while not drinking during the week. This pattern can be dangerous for health and social outcomes even if total consumption is fairly low. There is some

<sup>222</sup>Arnberg& Lord 2009, 5

evidence that in recent years, the pattern of consumption has shifted to some extent more towards a model of moderate consumption throughout the week, with an associated reduction in bingeing. Levels of abstention have also decreased, from around 25 to 35 per cent in the 1950s to a current level of around 11%.<sup>223</sup>This may mitigate against the potential harmful impact of the recent rise in per capita alcohol consumption.<sup>224</sup>

It is not clear whether the changes seen in drinking patterns in Sweden have been as a direct result of any particular anti-abuse intervention. Interventions have been concentrated primarily on restricting the availability and affordability of alcohol, rather than changing the pattern of drinking. Such changes as have occurred may thus be due more to the impact of increasing cultural integration with the rest of the European Union, and thus the adoption of more Mediterranean patterns of drinking (drinking wine, and drinking with a meal), than with a specific policy intervention. Current drinking patterns in Sweden are reflected in the table below.

**Table 22: Drinking patterns in Sweden, various dates (2000-2003)**

	Total	Male	Female
Abstention (last year)	11.3%	8.0%	14.7%
Hazardous alcohol consumption (20g or more pure alcohol for women per day, 30g or more pure alcohol for men per day)	8.8%	12.5%	5.4%
Proportion of monthly binge drinkers (consumption of one bottle of wine or more on one occasion at least once a month)		45.0%	22.0%
Binge drinking occasions as % of all drinking occasions (at least one bottle of wine, 25 centilitres of spirits or four cans of beer)		33.0%	18.0%
Youth drinking (defined as lifetime use of 40 times or more)	19.0%	23.0%	15.0%
Youth binge drinking (15 to 16 year-olds consuming five or more drinks in a row three times or more in the last 30 days)	17.0%	22.0%	13.0%

Source: WHO country profile, Sweden, available from [http://www.who.int/substance\\_abuse/publications/en/sweden.pdf](http://www.who.int/substance_abuse/publications/en/sweden.pdf)

<sup>223</sup>Karlsson & Österberg 2002, 3

<sup>224</sup>Arnberg & Lord 2009, 10

### A 1.6.3 Overview of legislative framework

Sweden has a long history of extremely restrictive regulation of alcohol, based in turn on high levels of social disruption caused by patterns of binge drinking of spirits in the mid-19<sup>th</sup> century.<sup>225</sup> The key components of the Swedish regulatory system were a drive to consolidate the number of liquor producers and put them under state control, and to clean up the public drinking environment at on-licenses. The unique nature of the Swedish liquor regulatory environment has since been somewhat diluted by European Union's regulatory requirements, particularly as relates to the competitive nature of markets. The current regulatory status quo is summarised in the table below.

**Table 23: Overview of Swedish liquor regulation framework**

Drink drive	
Legal limit for blood alcohol	0.2 %
For New Drivers	0.2 %
For professional drivers	0.2 %
Random breath testing	Yes
Restrictions on advertising	
Radio, TV	Ban on alcohol advertising
Billboards	Ban on alcohol advertising
Print media	Ban on advertising for alcoholic beverages > 15% vol;
	No lifestyle advertising for alcoholic beverages < 15% vol;
	Advertising must contain information on the negative effects of alcohol
Cinema	Ban on alcohol advertising
Sales promotions	Ban on promotions for alcoholic beverages
Restrictions at sports events	
Alcohol sports sponsorship	No
Selling of alcoholic beverages	Yes, ban on sale of beer > 3.5% vol.
	Ban on serving alcoholic beverages

<sup>225</sup>Karlsson&Österberg2002, 4

Taxation	
Spirits	501.41 Swedish kronor per litre of pure alcohol
Beer	1.66 Swedish kronor per litre and % vol.
Wine	From 7.58 Swedish kronor per litre > 2.25% vol. to 45.17 Swedish kronor per litre > 15% vol.
Sparkling Wine	From 7.58 Swedish kronor per litre > 2.25% vol. to 45.17 Swedish kronor per litre > 15% vol.
Alcopops	None
VAT	0.25
Special taxes	None
Pricing policy	
Minimum prices	Prices fixed by state monopoly
Cost-covering prices	Yes, in serving (on-premise)
Labelling	
Health warnings	No
Ingredients/nutrition information	No
Youth protection	
Age limits	Off-premise: 20; supermarkets for beverages containing between 2.25 and 3.5% vol: 18
	On-premise: 18
Mystery shopping	Yes, carried out by NGOs and the alcohol monopoly
Selling of alcoholic beverages	
Licence requirement	No, only possible to sell beer containing $\leq$ 3.5% vol.
	All other alcoholic beverages are sold by the alcohol monopoly
Selling of alcoholic beverages limited to liquor shops	Yes, monopoly for all alcoholic beverages > 3.5% vol.
Restrictions on locations of sale	No
Restrictions on density of outlets	Yes, selling points connected to the monopoly
Restrictions on hours/days of sale	Yes, in selling points connected to the monopoly: selling hours on weekdays from 10 am to 6 pm, Saturdays from 10 am to 1 pm
Serving of alcoholic beverages	

Do regulations require that some non-alcoholic beverages are sold more cheaply than the cheapest alcoholic beverage?	No
Restrictions on opening hours	Yes, serving hours from 11 am to 1 am, possibility for the licence authority to decide other opening hours
Licence requirement	Yes, not for beer containing not more than 3.5% vol.
Restrictions on consumption	
Consumption in public places	Yes, bans on municipal level

Source: Swiss Federal Office of Public Health, available at <http://www.bag.admin.ch/themen/drogen/00039/10172/12019/index.html?lang=en>

Prior to joining the European Union in 1995, the production, import, export and wholesale of spirits and wine was run as a monopoly by the state-owned company, Vin & Sprit. At ascension to the EU, a new Alcohol Act came into force which abolished this monopoly, while allowing Vin & Sprit to continue operating in competition to new private licensees.<sup>226</sup> Vin & Sprit has since been privatised, in a 2008 sale to PernodRicard. The change in licensing requirements has been associated with a large increase in the number of competitors in the liquor market, as reflected in the growth in licensee numbers in the table below. These competitors now provide rivalry for Systembolaget in the wholesale market to restaurants, which was previously held as a monopoly. However, Systembolaget retains its off-license retail monopoly.

<sup>226</sup>Karlsson&Österberg2002, 7

**Table 24: Number of licenses to manufacture or wholesale spirits, wine and strong beer, at the end of each year**

	Wholesale	Manufacturing	Retail	Number of companies
1994	16	23	..	23
1995	159	27	15	174
1996	211	36	41	252
1997	244	41	45	289
1998	316	53	46	362
1999	352	56	52	385
2000	467	54	23	538
2001	566	51	23	593
2002	622	54	25	602
2003	671	62	28	760
2004	684	60	22	770
2005	737	66	20	818
2006	779	71	21	851
2007	834	74	23	916
2008	868	71	28	909
2009	1 016	87	27	1065

Source: Swedish National Institute of Public Health, 2010, *Alcohol Statistics 2009*

The basis for Systembolaget’s retail monopoly is the policy position that “alcohol-related problems are reduced if alcohol is sold in the absence of a profit motive.”<sup>227</sup> In other words, profit-motivated sellers of alcohol are felt to be more likely to continue to sell liquor, even when the way in which it is being consumed is harmful. Systembolaget has therefore been set up as a state-owned, not-for-profit monopoly on off-license retail sales, and is tasked with limiting the availability of alcohol, and informing the consumer about the health characteristics of alcohol. The Systembolaget monopoly is restricted to drinks containing more than 3.5% alcohol by volume. Drinks with alcohol content below this limit can be freely sold at any retail outlet, without a license.

In practice, Systembolaget’s retail network has not emphasized customer satisfaction or convenience, so as not to encourage the growth of the market. For example, at present Systembolaget operates only 421 retail outlets nationwide, plus over 500 delivery points for sales to on-licensees.<sup>228</sup> The stores themselves historically were set up so that customers had to request

<sup>227</sup> <http://www.systembolaget.se/English/Our-alcohol-policy-role/>

<sup>228</sup> <http://www.systembolaget.se/English/Our-stores/>

their order from an assistant, rather than being able to select goods from the shelves, and the shift to self-service, supermarket style arrangements only occurred in the 1990s.<sup>229</sup> However, this ‘unfriendly’ consumer environment probably had less impact on reducing consumption than the ability of Sweden to impose high excise taxes on alcohol, and decrease its affordability, which has since been impaired by membership of the European Union.

#### A 1.6.4 **Interventions to reduce alcohol abuse**

As the liquor regulation environment in Sweden has been highly controlled, less emphasis has probably been placed on educational and intervention initiatives than in countries with a more permissive liquor regulation framework. However, ascension to the EU has reduced the ability of the Swedes to control the availability and price of alcohol in Sweden, and thus has increased the urgency of pursuing educational initiatives, for example.

Systembolaget is one of the institutions tasked with performing this educational task. At present, it provides information on the advisability of parental introduction of alcohol to teenagers in controlled environments, communicating with the youth on alcohol consumption patterns, and various research on the link between alcohol consumption and health.<sup>230</sup> As Systembolaget is run as a non-profit organisation tasked with reducing alcohol consumption, there is no policy conflict in requiring it to simultaneously provide education on the hazards of alcohol.

In addition, the Swedish National Institute of Public Health (FHI) was established in 1991, as a state agency under the Ministry of Health and Social Affairs. The principle tasks of the FHI are as follows:

*“To monitor and coordinate the implementation of the national public health policy.*

*To be a national expert agency for the development and dissemination of methods and strategies in the field of public health, based on scientific evidence.*

*To exercise supervision in the areas of alcohol and tobacco.”<sup>231</sup>*

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<sup>229</sup> Karlsson & Österberg 2002, 10

<sup>230</sup> <http://www.systembolaget.se/Alkohol-och-halsa/>

<sup>231</sup> <http://www.fhi.se/en/About-FHI/>

As the provision of public health services and strategies in Sweden takes place at a local or regional level, the FHI aims to influence decision-making at these institutions, and thus does not directly implement the strategies it devises. It also undertakes research at a national level on public health issues, including the consumption and production of alcohol.

## A 1.7 Thailand

### A 1.7.1 Production

Up until 2000, the Thai liquor industry was regulated through a distillation concession system and the industry was effectively restricted to only 12 licensees. These concessions granted the holders the right to produce liquor products and were allocated by the Excise department through a competitive bidding system. The government required large fees for these licenses while the manufacturers enjoyed the benefits of an artificial oligopoly market. The licensees eventually merged together and were therefore able to earn monopoly profits. The market was liberalised in 2000, but the government still regulates the industry heavily and competition in the market is miniscule.<sup>232</sup>

Imports are marginal and have little effect on the domestic price of alcoholic beverages. Between 1998 and 2000, imports only constituted 3.9% and 0.1% of the spirit and beer market in Thailand respectively. In the local spirits production market, white spirits production represented approximately 75% of all spirits produced.<sup>233</sup> Thailand's liquor market is effectively dominated by two companies, particularly in the beer and white liquor sectors. Thai Beverages PLC (ThaiBev) is Thailand's dominant beverage company, with a market share in excess of 80% in the spirits beverage sector and over 30% market share in the beer sector.<sup>234</sup> Singha Corporation holds roughly 60% of Thailand's beer market, and is among the top 25 beer producers globally.<sup>235</sup> These companies produce own-brands as well as distribute international brands within the local market.

The market for beer and ready-to-drink (RTD) alcoholic beverages grew at a rate of 5% - 6% in 2006. Many of the RTDs were introduced to the Thai market through international brands operating within the borders of Thailand. These are usually joint-ventures that have the benefit of a custom tax-free status.<sup>236</sup>

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<sup>232</sup>Richupan(2005)

<sup>233</sup>Thamarangsi (2006)

<sup>234</sup> TRIS Rating (2012)

<sup>235</sup>Barth Haas Group and GermainHansmaennel (2012)

<sup>236</sup>Thamarangsi (2006)

### A 1.7.2 Consumption

According to the World Health Organisation, the South-East Asia Region has relatively low consumption levels when compared to the rest of the WHO member states. However, the consumption of alcohol is increasing rapidly. Drinking in this region is characterised by heavy episodic or binge drinking. This increase in the amount of alcohol consumed is predicted to increase even faster in the future. This is in contrast to the decreasing trends seen in many other regions in the world. Consumption is mostly by males, as one-third of males in the region consume alcohol while only 4-9% of females do.<sup>237</sup>

Per capita consumption of alcohol stayed relatively constant during the 60s and 70s but started increasing during the 80s and has done so ever since. Thailand is, according to the WHO, the heaviest drinking nation in the region. In the period 2003-2005, it was estimated that the adult per capita consumption in the entire South East Asia region was 2.2 litres of pure alcohol per year. At this time, Thailand was consuming 7.1 litres per capita, substantially above the regional average.<sup>238</sup> In 1961, the Thai adult per capita consumption of alcohol was merely 0.26 litres which also gives a clear indication of the enormous rate of increase, not just in the South-East Asian region itself, but in Thailand specifically. This increase in per capita alcohol consumption is also confirmed by the Thai Excise Department which states that alcohol consumption had doubled between 1988 and 2002.<sup>239</sup>

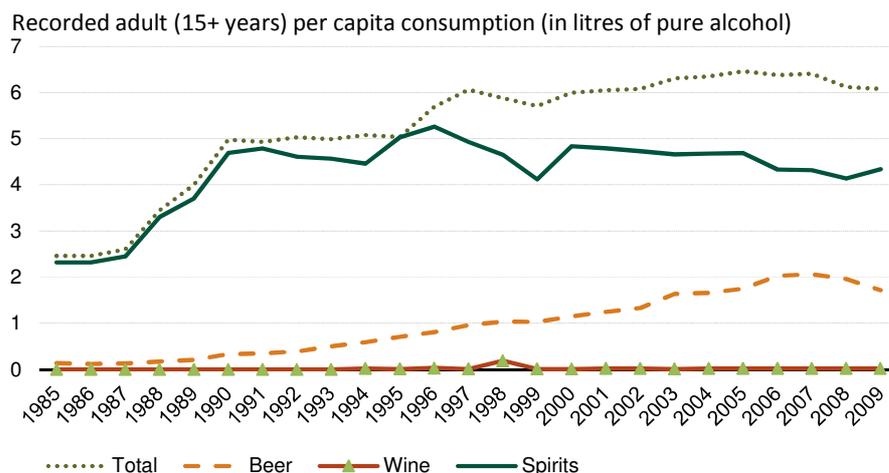
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<sup>237</sup> World Health Organisation (2006)

<sup>238</sup> [http://www.who.int/substance\\_abuse/publications/global\\_alcohol\\_report/profiles/tha.pdf](http://www.who.int/substance_abuse/publications/global_alcohol_report/profiles/tha.pdf)

<sup>239</sup> Thamarangsi (2006)

**Figure 27: Thailand adult per capita consumption of alcohol**



Source: WHO Global Health Observatory Data Repository, available from <http://apps.who.int/gho/data/node.main>

Thai consumers prefer beer and spirits to wine. As shown in the figure above, spirits consumption increased sharply in the late 1980s and early 1990s, but has been fairly stable since then, while beer consumption continued to increase until fairly recently. The drinking of spirits is still dominant however with the consumption of alcohol via spirits measured as 2.5 times higher than beer in 2009.<sup>240</sup> Wine consumption has remained low and relatively constant over the years. According to the WHO, as at 2009 71% of all alcohol consumed in Thailand is in the form of spirits, 28% in the form of beer and less than 1% wine. The predominance of spirits consumption lends itself to patterns of risky binge drinking, as seen historically in the Nordic countries.

There is no real difference between levels of alcohol consumption between age groups, although drinking at least three days per week was most prevalent amongst males and females between the ages of 45 and 65. The WHO estimates that more than 50% of all Thais in all age groups can be classified as moderate risk to high risk drinkers,<sup>241</sup> and 10% of males and 1% of females are considered to have alcohol use disorders.<sup>242</sup>

<sup>240</sup>WHO Global Health Observatory Data Repository, available from <http://apps.who.int/gho/data/node.main>

<sup>241</sup>Assanankornchai(2010)

<sup>242</sup>[http://www.who.int/substance\\_abuse/publications/global\\_alcohol\\_report/profiles/tha.pdf](http://www.who.int/substance_abuse/publications/global_alcohol_report/profiles/tha.pdf)

### A 1.7.3 **Overview of legislative framework**

Thailand has a legal system with a hierarchy of laws which may be enacted by different legislative authorities and consists of Acts and Statutes (highest ranking laws), Executive Decrees and Royal Decrees. There are effectively two Acts governing liquor in Thailand, with a number of decrees regulating various aspects of liquor policy. The two major pieces of legislation are the Liquor Act of 1950 and the Alcohol Control Act of 2008. Through the Alcohol Control Act of 2008 a new administrative body (the Alcohol Beverage Control Committee) was formed to regulate the sale, consumption and advertising of liquor products.

#### **A 1.7.3.1 Production and retail**

The Liquor Act of 1950 (and subsequent amendments) amongst other regulations, provides definitions and categories of liquor, allows for the implementation of excise rates on liquor products and regulates the manufacture and import of liquor products. Thailand's excise department is responsible for the licensing of liquor producers and importers.<sup>243</sup>

Under the Liquor Act a licence is also required for retailers wishing to sell liquor, for both on- and off-consumption. The licensing procedure is relatively straight forward, with minimal criteria and the price of such a license is very low.<sup>244</sup> In addition, regulations determining the time of sale of liquor products has been in place since 1961, with additional prohibitions on selling to those already intoxicated since 1966.<sup>245</sup> However, enforcement levels have historically been low, resulting in the proliferation of unlicensed liquor retailers and a lack of adherence to many regulations regarding the sale of liquor.<sup>246</sup> Thailand's experience suggests that easing the licensing burden on liquor retailers alone is not sufficient to encourage wider adherence to regulations, and that a combination of stronger enforcement and monitoring of regulations together with procedurally straight forward licensing is necessary.

Drinking was originally restricted to the sale of alcohol to persons over the age of 18, with this regulation enacted in 2003. In 2008 the Alcohol Control Act increased this age limit to 20 years. It is not clear to what extent the increased age limit has curbed alcohol consumption, though a small

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<sup>243</sup>Thamarangsi (2008)

<sup>244</sup>Thamarangsi (2006)

<sup>245</sup>Galbally et al (2012)

<sup>246</sup>Thamarangsi (2008)

qualitative study<sup>247</sup> suggests that the impact may be minimal, given that the combination of enforcement levels and penalties appear to be too low to encourage retailers to actively apply the drinking-age limit. The Alcohol Control Act of 2008 also prohibits the consumption and sale of alcohol in temples, public health buildings, educational institutions, parks and petrol stations.

#### ***A 1.7.3.2 Advertising***

Advertising restrictions were first implemented in 2003, encapsulating a number of elements, including.<sup>248</sup>

- Restrictions on the geographical location of billboard advertising near educational institutions.
- Prohibition of liquor advertising on radio and television between 5am and 10 pm.
- The requirement of warning labels on marketing promoting liquor products and the restriction of content that may be seen to encourage drinking or the supposed benefits of liquor products.

Under the 2008 Alcohol Control Act, advertising restrictions have been reinforced, with a ban on all advertising that may be seen to promote consumption and a prohibition from displaying the actual product or package of the product being advertised.

#### ***A 1.7.3.3 Drink driving***

The legal limit of Blood Alcohol Concentration for a normal licensed driver is 0.05 g/100mL. There is a zero tolerance policy for specific types of licenses such as learners, bus, taxis, trains or heavy truck drivers. Penalties for breaking these laws include heavy fines, community service and possible jail-time.<sup>249</sup>The consumption of liquor inside or on vehicles has also been banned since 2009.<sup>250</sup>

#### ***A 1.7.3.4 Interventions to reduce alcohol abuse***

As mentioned in the previous section, alcohol consumption increased dramatically in Thailand over the last 50 years. This has led to a worrying burden of disease and other negative impacts on the Thai population. It has been estimated that alcohol abuse and alcohol dependence has contributed

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<sup>247</sup> Limaye, et al. (2012)

<sup>248</sup>Thamarangsi (2006)

<sup>249</sup>Thai Foundation for Responsible drinking(2013)

<sup>250</sup>Galbally et al (2012)

more to “Years Lived with Disabilities” (YDL) amongst men than any other illnesses. When life expectancy is adjusted for alcohol abuse then alcohol dependency is ranked third behind HIV and traffic accidents.<sup>251</sup> According to the WHO, a survey indicated that 62% of all traffic accident victims had a positive blood alcohol level and an estimated 45% of all driving related deaths in Thailand are attributed to alcohol abuse.<sup>252</sup>

Alcohol policy in Thailand has historically shown a deep divide between economic and social interests. Policy has often been driven by the fiscus while societal issues, such as public health, have been of secondary concern.<sup>253</sup> In 2001 Thailand passed the Thai Health Promotion Foundation Act, establishing a system to finance health promotion initiatives in Thailand. Under this act a foundation was established and a 2% surcharge levied on alcohol and tobacco excise taxes in order to fund the foundation. The Thai Health Promotion Foundation funds 13 plans, including tobacco and health control. These plans concentrate on advocacy and marketing campaigns aimed at improving overall health in Thailand. Under liquor control, the aim of the Foundation is to reduce overall alcohol consumption and advocate for the introduction of more restrictive liquor regulations. **Key successes attributed to the Thai Health Promotion Foundation mainly relate to policy advocacy** (leading to the Alcohol Control Act (2008) among other regulations) and the foundation **appears to play a negligible role in other forms of interventions to specifically combat abuse of alcohol.**

The tax on alcoholic beverages is calculated by taking the maximum of either an ad valorem tax (based on declared cost of product) or specific excise tax (per litre of pure alcohol).<sup>254</sup> Historically these taxes were used mainly for revenue generating purposes, with favourable tax rates for white spirits (which are historically produced in Thailand) and comparatively higher rates on liquor products imported into Thailand.<sup>255</sup> In other words, no attempt has been made to use high excise rates to reduce potentially risky binge drinking of spirits. Despite significant increases in tax rates since 2005, excise rates on liquor (especially specific rates) are generally considered artificially low, while ad valorem rates have often resulted in a high degree of tax evasion and collection leakages.

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<sup>251</sup> Assanankornchai et al (2010)

<sup>252</sup> World Health Organisation (2004)

<sup>253</sup> Thamarangsi (2006)

<sup>254</sup> Hoontrakul (2009)

<sup>255</sup> Thamarangsi (2006)

## A 1.8 Turkey

Turkey is one of the few Muslim majority countries (with a Muslim population of over 98% of the total population<sup>256</sup>) where both the production and consumption of liquor is legally, culturally and socially acceptable and permitted. Despite the predominant Muslim population, the secular state has largely resisted attempts to fully prohibit alcohol production or consumption in Turkey.<sup>257</sup> However, the government has recently begun introducing a number of measures restricting the sale and advertising of liquor. While the government highlights this as an attempt to reduce, already comparatively low, levels of drinking and abuse (and to bring Turkey in line with EU regulations given Turkey's EU accession negotiations), critics of these measures suggest this is in effect a religious clampdown on alcohol by an increasingly conservative government.<sup>258</sup> In addition to the usual liquor products, Turkey's liquor market consists of a traditional drink, Raki, a grape-based spirit.

### A 1.8.1 Liquor production

Turkey's liquor production was effectively liberalised in 2003 through the privatisation of the state-owned monopoly, TEKEL (which produced both liquor products and tobacco), which held a monopoly on the production and import of Turkey's spirits. While TEKEL also produced wine and beer, in these liquor product markets, private entities were allowed to compete in manufacturing and importation. Following legislative changes and the liberalisation of the liquor sector, the liquor beverages division of TEKEL was purchased by a private consortium in 2003.

Since the 1980s Turkey has seen a significant increase in the production of wine, due to a combination of the rise in tourist visitors to Turkey and an effective ban on imports during this period. Turkey's suitable geography for the cultivation of a range of grapes (Turkey accounts for roughly 8% of world grape exports, ranking in the top five grape exporters globally<sup>259</sup>) has provided a conducive environment for the production of wine. Nevertheless, Turkey's wine exports are comparatively low, with most wine produced for the domestic market. Official production statistics suggests that wine production increased from approximately 30 million litres in 2005 to just over 51

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<sup>256</sup> Based on Pew Forum estimates (<http://features.pewforum.org/muslim-population/>)

<sup>257</sup> Michalak and Trocki (2006)

<sup>258</sup> Pamut (2013)

<sup>259</sup> Own calculations based on ITC Comtrade data.

million litres in 2011, with the number of wine producers increasing from 7 to 22 between 2005 and 2011.<sup>260</sup> However, Gumus and Gumus (2008) suggest that unrecorded (unregistered) production of wine may be far higher than that estimated by official statistics.

Total production of beer amounted to just over 10 million hectolitres in 2010 and close to 90% of this is produced for the domestic market, with neighbouring and regional countries such as Germany, Lebanon and Iraq the main export markets for Turkish beer. Imports accounted for roughly 0.1% of total beer consumption in 2010. There are seven companies producing beer in Turkey, though two companies account for 99% of total market share, owning six of the eleven breweries operating in Turkey. The remaining companies are effectively micro-breweries.<sup>261</sup>

The spirits sector in Turkey is also highly concentrated, largely due to the historic monopoly by TEKEL. Spirits production consists mainly of the production of Raki, which accounted for 65% of total spirits production (measured in pure alcohol terms) in 2009. The Turkish Statistical Institute estimated that in 2011 there were just over 20 enterprises producing various spirits in Turkey, with total production volumes estimated at roughly 92 million litres in absolute alcohol terms. Multinational firm Diageo is a major producer of spirits in Turkey, through its acquisition of Meylcki (Mey Beverages Inc), previously the liquor division of the state monopoly, in 2011.<sup>262</sup> The composition of Turkey's liquor market is shown in Figure 28. Beer and raki account for over 80% of Turkey's liquor sales (by value).

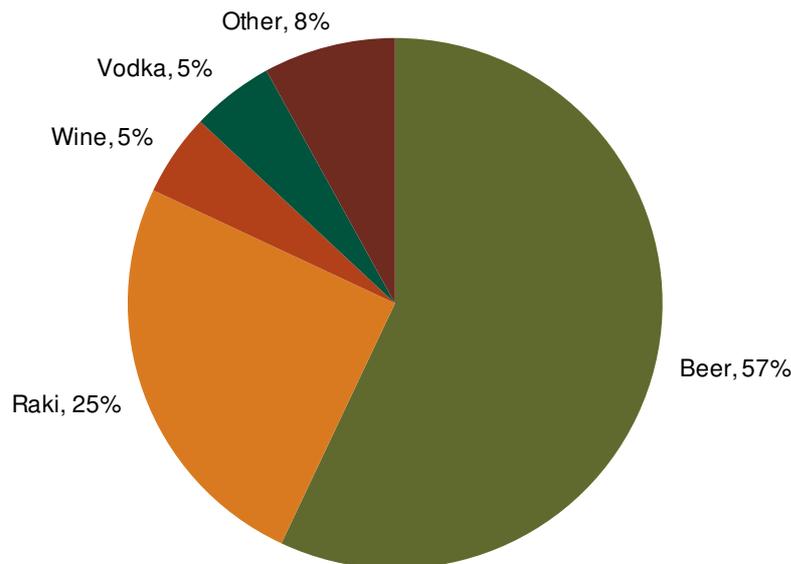
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<sup>260</sup> Based on data from Turkstat, Turkish Statistical Institute.

<sup>261</sup> Ernst & Young (2011)

<sup>262</sup> The initial private consortium rebranded the division as Mey Beverages Inc. and sold it to private equity firm TPG in 2006. In 2011 multinational liquor firm Diageo PLC purchased Mey Beverages from TPG. Fletcher (2011)

**Figure 28 Turkey's liquor market (by value), 2011**



*Source: Diageo presentation (2011)*

### A 1.8.2 **Liquor consumption**

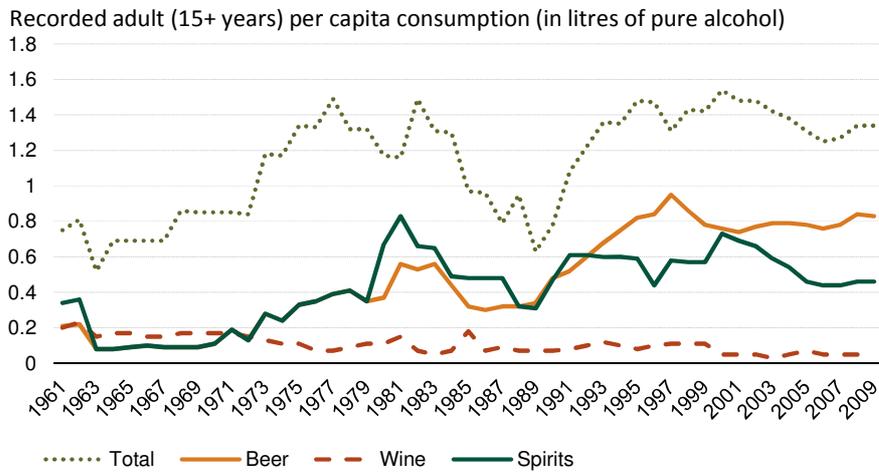
Despite the legality and availability of liquor products, abstinence levels are high and early studies estimated that less than 5% of the adult population consumed alcohol on a regular basis. The prevalence of liquor consumption is also much higher in men, with abstinence levels much higher amongst the female population. The reasons for this are largely rooted in the cultural and religious make-up of Turkish society, with higher levels of religious conservatism outside of Turkey's main urban areas.<sup>263</sup>

Beer consumption has risen significantly since the liberalisation of Turkey's liquor market, and is partially attributed to population demographics (with a large young population) and the rise in tourist visitors. Nevertheless, per capita beer consumption in Turkey remains low at about 13 litres per capita. Absolute alcohol consumption per capita remains one of the lowest in Europe at just over a litre per person.<sup>264</sup>

<sup>263</sup>Eruder (2005)

<sup>264</sup> Ernst & Young (2011)

**Figure 29: Turkey adult per capita consumption of alcohol**



Source: WHO Global Health Observatory Data Repository, available from <http://apps.who.int/gho/data/node.main>

### A 1.8.3 Overview of legislative framework

#### A 1.8.3.1 Production

Prior to 2002, Turkey's production and regulation of tobacco and liquor (and specifically high alcohol content spirits) effectively operated under a government monopoly through state-owned entity TEKEL. The production of beer and wine was less regulated and private production was permitted during various periods up to 2002.<sup>265</sup> The importation of liquor was also heavily regulated and all forms of liquor could only be imported directly by TEKEL or upon receipt of a special permit from TEKEL. As part of Turkey's ongoing application to accede to the EU, the Turkish government amended legislation to separate TEKEL's regulation of tobacco and liquor from its production operations in 2002, in an aim to liberalise (and remove the monopoly on) the liquor and tobacco sectors. In 2002 the Tobacco Products and Alcoholic Beverages Market Regulatory Authority (TAPDK) was established, with regulating powers transferred from TEKEL in 2003 when this entity was privatized. TAPDK is responsible for the licensing of producers, importers and exporters of all liquor products, including beer and wine.

<sup>265</sup>Eruder (2005)

### ***A 1.8.3.2 Distribution and retail***

Regulatory authority for the distribution and retail of liquor transferred from TEKEL to TAPDK in 2003. Distribution and wholesaling of liquor products is regulated by TAPDK and a license is required to act as a wholesaler or distributor. Licenses are issued for both off-premise and on-premise retail and these may be issued by TAPDK, the local provincial authority or municipality (or the highest local administrative officer). While the licensing regulations and prescripts may therefore differ across provinces and municipalities national regulations specifically govern the location of both on-premise and off-premise outlets, with these outlets not allowed to be within 200m of educational or religious buildings. A drinking age-limit of 18 years is in place for both on- and off-consumption, with this age-limit not dependent on parental guidance.<sup>266</sup>

More recently further national regulations and restrictions have been put in place for on- and off-consumption. **Restaurants and shops at petrol stations are not allowed to sell liquor products containing more than 5% alcohol.** For off-consumption retailers, liquor products may only be placed and sold in a designated area within the retailer and liquor adverts may not be placed outside of this sequestered area.<sup>267</sup>

### ***A 1.8.3.3 Drink-driving and public consumption***

Turkey has strict laws regarding drink-driving, with a maximum Blood Alcohol Concentration (BAC) level of 0.05% (0.5g / litre) in force. **Random breath testing takes place at regular levels and Turkey's enforcement of drink-driving law is considered very rigorous by the World Health Organisation (WHO).**<sup>268</sup> **Penalties take place under a "three-strikes" rule, with an escalating fine and licence suspension for each offence. On the third offence punishment can include imprisonment and psychological treatment and retesting for a drivers licence is mandatory.**<sup>269</sup>

Turkey has previously had **partial restrictions on public consumption of liquor**, with restrictions on liquor consumption in health, education and government office buildings, while liquor consumption at public events was largely permissible and regulated on a voluntary basis. In 2011, **stricter public**

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<sup>266</sup>Eruder (2005)

<sup>267</sup> Ernst & Young (2011)

<sup>268</sup> Grant (2012)

<sup>269</sup> Worldwide Brewing Alliance (2008)

consumption regulations were published which include the prohibition of liquor sales at student residences, sports clubs and venues and at special public events.<sup>270</sup>

#### ***A 1.8.3.4 Advertising***

The advertising of all liquor products has been banned on both television and radio since 1994, while advertising in other formats was partially regulated.<sup>271</sup> Since the late 2000s, stricter regulations have been enforced. These include<sup>272</sup>:

The prohibition of advertising in cinemas and the screening of alcoholic drinks in films only permitted when certified by the Ministry of Tourism.

The prohibition of advertising that connects, links or provides common values between food products and alcoholic beverages.

The prohibition of advertising in print media targeting young audiences and the prohibition of advertising liquor products on the front pages and covers of newspapers and magazines.

Sponsorship of teams and events has also been severely curtailed and companies are now prohibited from using beverage brands as part of venue or sports teams' names.<sup>273</sup> This restriction on advertising is explicitly aimed to reduce the harmful abuse of alcohol, but may also reflect an increasing religious conservatism in Turkey's views on alcohol and liquor consumption.<sup>274</sup>

#### **A 1.8.4 Interventions to reduce alcohol abuse**

Given the high levels of abstinence and the comparatively low absolute levels of alcohol abuse in Turkey, focussed anti-abuse initiatives in Turkey are less prevalent than in other European countries, with a much bigger focus on tobacco abuse.

Rather, since the early 2000s Turkey's government has focussed on policy / regulatory initiatives aimed at reducing liquor consumption in general. These include the introduction of a **Special Consumption Tax (SCT)** on liquor and other products in 2002. This tax has subsequently risen substantially, with the excise tax on beer rising from 0.20 TRL / litre / 5% alcohol to 2.20 TRL / litre /

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<sup>270</sup> Ernst & Young (2011)

<sup>271</sup> Eruder (2005)

<sup>272</sup> Ernst & Young (2011)

<sup>273</sup> Bilgic et al (2013)

<sup>274</sup> Pamuk (2013)

5% alcohol between 2002 and 2010, making Turkey's excise rate on beer one of the highest in Europe.<sup>275</sup> In 2010, the government also instituted a **“health tax”**, earmarking between **1%-2% of revenue from alcohol sales** for the Social Security Institute in support of treatment for alcohol dependence.

Public commentators have suggested that an increasing conservatism has resulted in active attempts by government to completely curtail liquor consumption in Turkey, through the imposition of prohibitive taxes, government sponsored initiatives to discourage the acceptability of liquor consumption in Turkish society, bans on public consumption of liquor during periods of religious significance and the increase in regulations and restrictions of liquor at the retail level.<sup>276</sup>

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<sup>275</sup> Ernst & Young (2011)

<sup>276</sup> See Cagapty (2008), Gursel (2013), Jones (2012) and Champion and Parkinson (2011).

## A 1.9 Ukraine

### A 1.9.1 Liquor production

The Ukraine has a saturated liquor market, with approximately 300 companies licensed to produce liquor products. Production (and consumption) is particularly high in the beer and spirits segments, while wine production is limited. However, the liquor sector can be considered fairly concentrated, with the 10 largest producers making up 71% of the market in 2005, with this market share expected to have increased to 80% by 2010.<sup>277</sup>

In the vodka market, four firms account for over half of production,<sup>278</sup> and the market share of the top six vodka brands in the Ukraine is over 50%.<sup>279</sup> Ukraine's exports of liquor products are dominated by the export of vodka, with key markets including countries in Eastern Europe and Russia. The Ukrainian National Alcohol and Drug Observatory (UNADO) within the Health Ministry of Ukraine suggests that the illegal production and sale of vodka is high, estimating that up to 35% of the vodka sold in the country is produced illegally.<sup>280</sup>

The beer market is well developed and is primarily represented by three international brewing companies, which account for roughly 65% of the beer market, with a single local producer supplying most of the remaining beer market. In 2008, 320.3 decalitres of beer was produced with only 0.6% of the market being served by imports.<sup>281</sup>

The wine production sector is clearly the smallest with most producers focussing on the bottling of wine as opposed to the manufacture of wine.<sup>282</sup> Even though approximately 600 agricultural initiatives are involved in grape farming, a very small percentage of these are actually fully specialised in grapes for wine production and grapes grown in the Ukraine are primarily table grapes.<sup>283</sup>

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<sup>277</sup> ERSTE Group (2009)

<sup>278</sup> ERSTE Group (2009)

<sup>279</sup> Korzun (2012)

<sup>280</sup> Kyiv Post (2012)

<sup>281</sup> ERSTE Group (2009)

<sup>282</sup> Deloitte (2002)

<sup>283</sup> Deloitte (2002)

### A 1.9.2 Consumption of liquor

During the 3 year period between 2003 and 2005, an estimated annual average of 15.6 litres of pure alcohol was consumed per capita in the Ukraine, of which almost half (7.5 litres) comprised unrecorded consumption.<sup>284</sup> It is estimated that levels of unrecorded drinking are on the rise, with a drinking culture centred around celebratory activities and for intoxication purposes rather than being incorporated into everyday activities.<sup>285</sup>

According to the World Health Organisation's (WHO) report on the global status on alcohol and health of 2011, the people of the Ukraine drink a lot more spirits than wine and beer and 61% of all pure alcohol consumed in the Ukraine is through spirits.<sup>286</sup> According to Levchuk (2009), the dominance of spirits in the drinking patterns of the Ukrainian people is traditional to the indigenous drinking culture, though beer drinking has increased over recent years. Beer now makes up 32% of overall alcohol consumption and wine 7%. The predominance of spirits consumption is again consistent with a pattern of harmful binge drinking.

Ukraine's high levels of unrecorded alcohol consumption are explained by the prevalence of home distillation of a sugar-based spirit, commonly known as samogon, and the informal production of wine. The production of these homebrews, particularly of samogon, is considered deeply rooted in tradition and is partly due to the Ukraine's close ties to Russia (previously as a part of the USSR). Periods of prohibition and anti-alcohol campaigns in the USSR, coupled with the substantial production of sugar in the Ukraine, resulted in a significant increase in homemade alcohol during these periods.<sup>287</sup>

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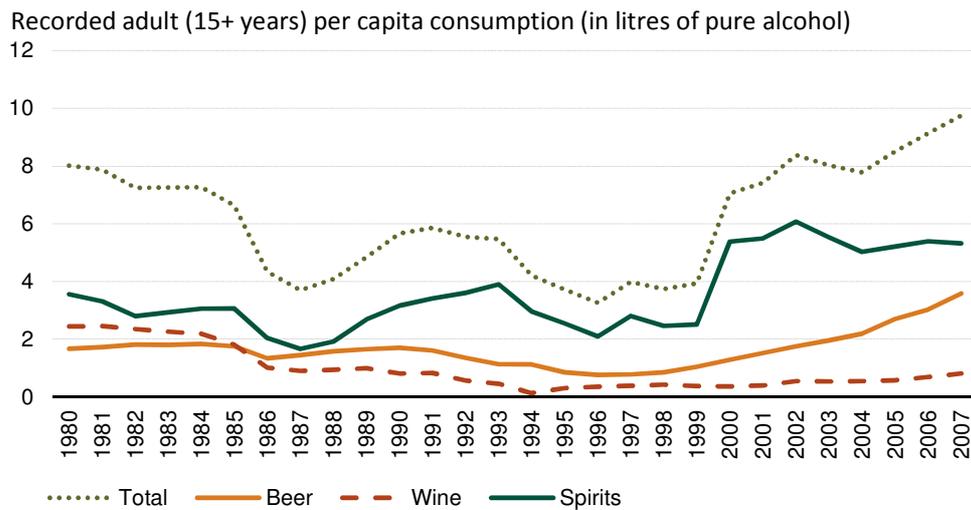
<sup>284</sup> WHO (2011)

<sup>285</sup> Levchuk (2009)

<sup>286</sup> World Health Organisation (2011)

<sup>287</sup> Bhattacharya et al (2012), Levchuk (2009)

**Figure 30: Ukraine adult per capita alcohol consumption**



Source: WHO Global Health Observatory Data Repository, available from <http://apps.who.int/gho/data/node.main>

Levels of recorded consumption of alcohol have risen sharply since the 1990s, as shown in the figure above. These high levels of consumption are also illustrated by the prevalence of alcohol use disorders in the Ukraine, with an estimated 8.63% of all men in the Ukraine older than 15 having an alcohol use disorder, and 31.5% of Ukrainian men classified as heavy episodic drinkers<sup>288</sup>. According to Popova et al(2007), binge drinking is a part of the culture in the Ukraine and it has a very strong link with premature deaths. Deaths that are attributed to alcohol consumption accounts for one-third of the male and one-fifth of the female gap in life-expectancy between the Ukraine and Western countries.<sup>289</sup>

According to demographics, men between 26 and 54 and woman between 18 and 25 were at the greatest risk, especially in the Southeast region of the Ukraine. Other risk factors for Ukrainian men were low education as well as being the father of a young child. In general, rates of alcohol consumption in the Ukraine are very similar to that of Russia.<sup>290</sup>

<sup>288</sup> [http://www.who.int/substance\\_abuse/publications/global\\_alcohol\\_report/profiles/ukr.pdf](http://www.who.int/substance_abuse/publications/global_alcohol_report/profiles/ukr.pdf)

<sup>289</sup> Levchuk (2009)

<sup>290</sup> Webb et al (2012)

In 2009, it was reported by the WHO that the Ukraine took first place in the world ratings of alcohol consumption among children. It is said that children in the Ukraine, on average, have their first drink between the ages of 10 and 13. The fact that this drink is also supplied to them by their parents in 70% of cases suggests that social norms as regards acceptable drinking behaviours are out of kilter with health requirements. It therefore comes as no surprise that approximately 60% of cases of child poisonings in the Ukraine are caused by alcohol.<sup>291</sup>

### A 1.9.3 Overview of legislative framework

#### A 1.9.3.1 Production and retail

The Law of Ukraine on State Regulation of the Manufacture and Circulation of Ethyl, Cognac, Fruit Alcohol, Liquors and Tobaccos defines liquor products and regulates the production and sale of liquor products in Ukraine. Under this law, producers and sellers of liquor products are also required to be licensed.<sup>292</sup> Once liquor is defined as an alcoholic beverage, a person buying this product within the borders of the Ukraine has to be at least 18, regardless of whether it is sold in the form of beer, wine or spirits or whether it is sold on or off-premises.

Under the law regulating liquor products, beer is classified separately from wine and spirits, and retail restrictions of liquor products are much more focused on wine and spirits than on beer, specifically pertaining to the places that liquor can be sold.

#### A 1.9.3.2 Advertising

Advertising of spirits and wine is strictly regulated under Ukraine's Advertising Law. Radio and television advertising is prohibited between 6am and 11pm. There are also strict regulations (effectively a partial ban) regarding the type of print media in which spirits or wine advertisements can appear (such as media intended for persons under the age of 18) and indoor and outdoor advertising of spirits and wine is prohibited. The type of communication and marketing is also regulated and advertisers may not portray spirits and wine products in a way that may encourage drinking or suggest that these products are beneficial to an individual's health. Alcohol advertisements must be accompanied by a health disclaimer and advertisers of spirits products are required to spend 5% of their advertising budget on public service advertisements highlighting the

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<sup>291</sup> It's Ukraine (2009)

<sup>292</sup> Justicon Law Firm (<http://justicon.ua/licenziya-na-roznichnyu-torgovlyu-tabakom-i-alkogolem-roznica-alkogol-tabak.html?language=en>)

harmful effects of alcohol abuse. Given that beer is classified separately from other liquor products, there are far fewer restrictions on the advertising of beer.<sup>293</sup>

### **A 1.9.3.3 Drink driving**

Regarding driving under the influence of alcohol, the Ukraine has very strict laws. Technically the Blood Alcohol Concentration (BAC) maximum for driving is 0g/100ml; however in recent times levels up to 0.02g/100ml have been accepted as a means to allow for certain medication and mouth washes. Repeat offenders are likely to have their licenses revoked and fines ranging between 2 550 and 3 400 Ukrainian Hryvnia can be imposed.<sup>294</sup>

### **A 1.9.4 Interventions to reduce alcohol abuse**

Despite the existence of fairly restrictive regulation for the production and consumption of liquor in the Ukraine, levels of alcohol abuse remain high, with this exacerbated by the high levels of unrecorded liquor production and consumption. In 2006, Ukraine established the Ukrainian Medical and Monitoring Centre for Drugs and Alcohol within the Ministry of Health. The aim of this Centre is the overall monitoring of drug and alcohol use, together with the formulation of alcohol policy and programmes for the reduction of alcohol abuse.

While there is no official alcohol policy in the Ukraine<sup>295</sup>, a number of interventions are implemented within overall drug prevention programmes. These include universal prevention programmes carried out through voluntary activities in secondary schools in Ukraine. Selective / specific programmes and prevention projects are mainly initiated by NGOs and other organisations financed by international donors and charitable foundations.<sup>296</sup> While excise duties exist on liquor and beer in the Ukraine, with excise duties on selected products expected to rise in the medium term<sup>297</sup>, the level of unrecorded liquor consumption suggests that higher liquor prices may not be effective in reducing alcohol abuse. The lack of a coherent policy on the prevention of alcohol abuse is highlighted by the Ukrainian Medical and Monitoring Centre for Drugs and Alcohol, which notes a lack of dedicated

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<sup>293</sup> Shevchenko (2012)

<sup>294</sup> FIA (2013)

<sup>295</sup> Kyiv Post (2012b)

<sup>296</sup> Viyevskyy et al (2011)

<sup>297</sup> Kyiv Post (2012a)

interventions and programmes, little media coverage of liquor abuse and interventions and a lack of coordination between government and NGOs.<sup>298</sup>

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<sup>298</sup> Viyevskyy et al (2012)

## A 1.10 Zambia

### A 1.10.1 Liquor production

In the formal liquor sector, beer is the main liquor segment in terms of both production and consumption in Zambia. Both the clear beer and opaque beer markets are dominated by a single producer (two brewers, both of which are subsidiaries of SAB-Miller). Following the privatisation of the Zambian beer industry in 1994, SAB-Miller acquired Zambian Breweries (the main producer of clear beer products in Zambia). In 1999, SAB-Miller was permitted by Zambia Competition authorities to acquire National Breweries, the single largest producer of opaque beer in Zambia. Through these two operations, SAB-Miller effectively controls between 80% and 90% of the total beer market in Zambia. Imported clear beers and local producers of opaque beers make up the remaining beer market.<sup>299</sup> In 2011, Zambian Breweries and National Breweries produced roughly 1 million hectolitres and 1.9 million hectolitres of clear beer and opaque beer respectively.<sup>300</sup>

The formal spirits and wine production markets remain small overall, with imports making up a significant share of the premium sector. Local manufacturers have concentrated on the lower-end of the market, producing products such as the now banned Tujilijili, sold in packaging such as sachets and PET / plastic bottles.

### A 1.10.2 Liquor consumption

The World Health Organisation (WHO) estimates that Zambia's total average liquor consumption (in pure alcohol terms) between 2003 and 2005 was 3.9 litres per capita, and of this unrecorded consumption is estimated to be 1.5 litres per capita. Total consumption has been steadily declining since the late 1980s. While abstainers currently make up around 84% of the population, of those who drink 48% of males and 41% of females can be characterised as heavy episodic drinkers<sup>301</sup>. In terms of recorded consumption, beer is the most consumed liquor segment in Zambia, with opaque traditional beers such as chibuku being more widely consumed than clear beer (as per the data in the figure below, opaque traditional beer is recorded under "other"). Spirits and, to a lesser degree, wine make up a small proportion of the overall volume of liquor consumed in Zambia.

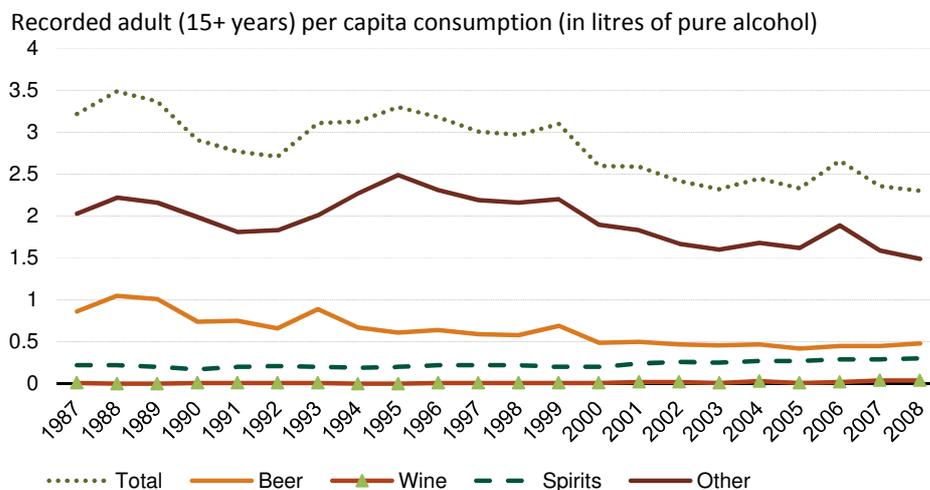
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<sup>299</sup> Ellis et al (2010)

<sup>300</sup> [http://www.parliament.gov.zm/index.php?option=com\\_content&task=view&id=1823](http://www.parliament.gov.zm/index.php?option=com_content&task=view&id=1823)

<sup>301</sup> [http://www.who.int/substance\\_abuse/publications/global\\_alcohol\\_report/profiles/zmb.pdf](http://www.who.int/substance_abuse/publications/global_alcohol_report/profiles/zmb.pdf)

**Figure 31: Zambia adult per capita alcohol consumption**



Source: WHO Global Health Observatory Data Repository, available from <http://apps.who.int/gho/data/node.main>

Illicit and traditional beverages make up a significant proportion of total liquor consumption in Zambia. Illicit drinks vary by type but popular variants of these drinks include *Kachasu* (a distilled spirit made through a two-stage process with ingredients including sorghum, maize, beer, sugar and yeast) and *Akiki wine* (with yeast and sugar as the common fermenting ingredients).<sup>302</sup>

### A 1.10.3 Overview of legislative framework

Liquor products are characterised and defined in the Food and Drugs Act (Cap 303). This act includes a specific definition for “opaque” or traditional beer, defined as a liquor product derived from the fermentation of a mash of cereal grain or vegetables and containing between 2% and 6% of absolute alcohol.

#### A 1.10.3.1 Production and retail

Under the Customs and Excise Act (Cap 322) a license is required in order to produce beer, spirits or wine in Zambia.

<sup>302</sup> Haworth and Simpson (2004)

The Liquor Licensing Act of 2011 replaces the Liquor Licensing Act of 1959 and regulates the manufacture, sale and consumption of liquor products. Under this act licences for the retail sale of liquor are issued by the local authority, and while all licensees are required to adhere to minimum national regulations on days and times of operation, local authorities have the power to enforce stricter conditions on the licensee. In addition the Licensing Act of 2011 stipulates that the licensing authority is required to take into account a number of issues including the social and welfare consequences on the local community when issuing a licence and the suitability of the premises. Licences may not be provided to off-consumption retailers in close proximity to educational, health or religious facilities. The sale of liquor to persons under the age of 18 years is prohibited. Public drinking is also prohibited under the Liquor Licensing Act

### ***A 1.10.3.2 Traditional drinks and concoctions***

The Customs and Excise Act originally provided exemptions for the personal production of fermented liquor where the product is for domestic or personal use. In addition, the private production of opaque beer was exempt from licensing requirements where production was for domestic use and where production volumes did not exceed twenty-three decalitres in any period of four consecutive days. The Traditional Beer Act of 1930 was repealed and replaced by the Liquor Licensing Act of 2011. Under the Liquor Licensing Act, the manufacture for sale of any liquor product containing more than 3% alcohol without a licence is prohibited, while the manufacture of traditional beer without a licence is prohibited. In 2012 the Zambia government banned the sale of alcohol packaged in sachets, commonly known as Tujilijili.<sup>303</sup> The rationale advanced for this ban was the prevalence of Tujilijili abuse by underage drinkers, and the difficulties in regulating such consumption. It should be noted however that the manner in which the ban was implemented was sufficiently irregular so as to result in the liquor licensees involved being awarded damages.<sup>304</sup>

### ***A 1.10.3.3 Drink driving and advertising***

Penalties for drunk driving are legislated by the Road Traffic Act and can include imprisonment for between six months and five years or imprisonment for between thirty and fifty-two consecutive weekends, including the payment of a fine. Based on information from WHO (2011) BAC level in Zambia is 0.08% or 0.8g / l.

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<sup>303</sup>Kalombe (2013)

<sup>304</sup><http://www.daily-mail.co.zm/?p=1075>

WHO (2011) indicates that there are currently no restrictions on the advertising and sponsorship of liquor products in Zambia.

#### A 1.10.4 **Interventions to reduce alcohol abuse**

Since the late 2000s, Zambia has placed increasing importance on the development of a coherent alcohol policy. This has focused on both regulatory and legislative efforts (such as enacting of the Liquor Licensing Act in 2011) and the development of a national alcohol policy to reduce alcohol consumption and the abuses associated with alcohol. The National Alcohol Policy is currently in the consultative and draft phase, having been subjected to wider-ranging CSO participation. The Zambian Government has a number of programmes supported by the Ministry of Health, and has trained roughly 360 workers in the management of alcohol abuse. However, civil society appears to play a stronger role in the implementation of programmes against alcohol abuse, with the development of the Zambia Network Against Harmful Use of Alcohol (ZNAHUA) recently established for this purpose. Capacity challenges with the Ministry of Health and local authorities' appears to be the main constraint in rolling out full-scale alcohol abuse programmes.<sup>305</sup>

The Zambian government also has excise taxes in place, with spirits and wine taxed at an ad valorem rate of 125%. Excise rates on clear beer have fallen from 75% in 2007 to 40% in 2011 (in an effort to reduce tax evasion, specifically for imports), while conversely excise taxes have risen from 10% in 2007 to 30% in 2011.<sup>306</sup>

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<sup>305</sup> Pascal (2012)

<sup>306</sup> Information from Zambian Revenue Authority (<http://www.zra.org.zm>), SADC Tax Database (<http://www.sadc.int/information-services/tax-database/>) and Lusaka Times (2011).

## **Appendix 2. Primary research on shebeens and informal retailers**

Primary research on shebeens and “informal taverns” was conducted in order to provide a deeper understanding of the role these retailers play in the consumption and abuse of liquor. A combination of focus groups and one-on-one interviews were carried out with employee and owners in the Gauteng region. The research and report were conducted and produced by FOSHIZI.

### **A 2.1 Introduction**

#### **A 2.1.1 Research Objective**

This report will endeavour to discuss and present the salient points that were derived from a qualitative study on the impact assessment of the effectiveness of the National Liquor Act 53 of 2003.

The key objectives of the research were:

- To understand how the shebeens work.
- To understand how people drink in shebeens.
- To establish what is going wrong or right in shebeens.
- To determine measures that could be put in place to ensure safety of customers and staff.
- To help shebeens run better for the benefit of shebeen owners and customers.

#### **A 2.1.2 Research Methodology**

The research was conducted in Gauteng in the following townships: Vosloorus, Tembisa, Mamelodi, Kagiso and Soweto.

An experienced multi-lingual moderator was recruited to ensure accurate and reliable delivery of market intelligence.

Six focus groups of shebeen employees, with ten participants per group were recruited. They were divided into three focus groups of licensed and unlicensed shebeen employees. The shebeens they work for had to sell at least 20 cases of liquor (beer, cider etc.) per week (Thursday to Monday).

Ten one-on-one interviews were conducted with shebeen owners. The respondents were also divided into two groups of licensed and unlicensed shebeen owners, comprising of five respondents per group. The shebeen or tavern had to sell at least 20 cases of beer a week.

The data was collected using a video recorder and Dictaphone.

### A 2.1.3 Sample

The population of the sample is reflected in table 1 and figure 1 that follow:

	JHB & PTA		
	Licensed	Unlicensed	Total
<b>Shebeen Employees</b>	X1 Female	X2 Female	3
	X2 Male	X1 Male	3
Subtotal groups	3	3	6
Total Respondents	30	30	60

	JHB & PTA		
	Licensed	Unlicensed	Total
<b>Shebeen Owners</b>	X3 Female	X4 Female	7
	X2 Male	X1 Male	3
Total Respondents	5	5	10

### A 2.1.4 Criteria for Recruitment: Owners and employees

#### A 2.1.4.1 Employees

The respondents for the focus groups had to meet specific criteria. They had to work for or at a shebeen, tavern, etc. and had to interact with customers every day as part of their job description. They were recruited from medium to large taverns/shebeens that were selling a minimum of 20 cases of alcoholic beverages per week. The shebeen employees recruited are employed at shebeens as cashiers, packers, cleaners, stock controllers, waiters, general assistants and bouncers. They were grouped into licensed and unlicensed categories better to understand the conditions under which they operate, the hardships they face at their workplaces, their general shebeen experience, and to establish the insights and commonalties of employees from licensed as opposed to unlicensed shebeens.

#### A 2.1.4.2 Owners

The recruitment criteria for one-on-one interviews were also specific. Five respondents had to own a licensed shebeen/tavern, and had to sell a minimum of 20 cases of alcoholic beverages a week. The recruitment was done under the pretence that we were interested in knowing and understanding the shebeen environment in the township and what goes wrong and right in the township. Nowhere in the interview was the DTI mentioned.

The shebeen employees and owners were recruited by a qualified recruiter, who, before qualifying them for recruitment questions, introduced himself as someone who came from an independent body and not from the law enforcement, or the government, or the liquor board. This was done so as to win the respondents' trust so that they would open up to us in order for us to qualify that they indeed met the criteria for research. We anticipated resistance, because of the recent footage shown on ETV's 3rd Degree programme on how police intimidate and harass shebeen employers, employees and customers..

This research process was a success as never before had the respondents been afforded the opportunity to speak about the hardships and challenges that they are faced with in their different work environments. Due to lack of alternative employment, they have to endure pain and suffering at their own places of work.

The interviews were conducted during a week when a greater part of Gauteng experienced weather that was characterised by scattered thundershowers. The respondents had to brave the rainy weather and walk through muddy township streets to participate in the focus groups. The interviews were conducted at centrally located and easily accessible shebeens.

With the Gauteng province being a melting pot of cultures, interviews were conducted in three South African official languages (English, Sesotho and Zulu). The exception was two focus groups that were conducted in Soweto and Vosloorus where two foreign nationals were interviewed and the moderator had to speak English to accommodate them. The interviews were conducted between Tuesdays and Thursdays when the majority of employees were off duty. This was done primarily so that we could conduct the interviews in a relaxed environment, allow shebeen employees to take their time to interact and relate their experiences without having to rush back to work.

#### A 2.1.5 **Challenges with the appointments of the respondents**

Licensed respondents were not very easy to identify. One recruiter had to interview them first to establish their registration status. While some of them were adamant they did not trust our motives, some pretended to be busy and unavailable. Hence, it was decided that permit holders who push large quantities of liquor and have their goods delivered by SAB should be qualified as licensed.

There were a few incidents where the moderator made an appointment for 10h00 that had to be postponed to 18h00 because the respondents had hosted an urgent night party at their shebeen the previous night, which they could not miss because it meant big tips and incentives for them.

## A 2.2 Findings: based on the research objectives

### A 2.2.1 The Shebeen

#### A 2.2.1.1 *Definition by perceptions*

There seemed to be a misconception regarding the definitions of licensed and unlicensed shebeens. While employees have their own understanding, the shebeen owners proved to have different perceptions of the characteristics of shebeens and the processes involved in licensing.

- Both employers and employees at unlicensed shebeens perceive raids as a common feature of an unlicensed shebeen.
- The employees at licensed shebeens used the civilized nature of the clients to determine the licensing status of a shebeen, while the respective owners were more inclined to consider the quantity of stock that positively influenced their profit margins.

Asked about whether his registration status has impacted on his business operation, **a licensed shebeen owner from Soweto** had this to say:

“Yes it has, I’m more focused and making profit”.

#### A 2.2.1.2 *Shebeen ownership*

The majority of shebeens are owned by men and women in their forties and older, and who have been operating in their own backyards for over five years. Unlicensed shebeen owners are the heads and breadwinners of their own households. They rely on liquor sales to provide income for their own families to subsist. They have no other source of income and use revenue generated from liquor sales to pay for their funeral policies, rates and electricity, school fees and transport, as well as groceries. The licensed shebeen owners on the other hand, use profit generated from sales to provide for their families, pay tax and to grow their businesses.

#### A 2.2.1.3 *The shebeen structure*

The shebeen operates from the residential backyard or from the house of the owner. It is a family run business that sometimes employs staff depending on the workload. The unlicensed shebeen has no strict operating hours, and can open for over 18 hours in one day, while a licensed shebeen has operational requirements. Both licensed and unlicensed shebeens serve younger and older clientele in their establishments. The shebeen size varies in accordance with the amount of alcohol stocked per week, the type of alcohol provided, the number of staff personnel, the type of music played, and the type of clientele that frequent the shebeen.

#### A 2.2.1.4 Location of the shebeen

A shebeen can function from a busy or quiet environment; however, most shebeens and taverns, whether licensed or unlicensed are based in quiet and unzoned locations (that is, the residences were not previously earmarked or zoned for a specific use or establishment). A shebeen in a quiet area is positioned away from facilities such as the main road, taxi rank, hospital and shopping centre, while a shebeen located in a busy area is in close proximity to these facilities.

	Advantages	Disadvantage
UNLICENSED SHEBEEN OWNER	Customers have a peace of mind.	The sight of blue lights unsettles the owners due to the unlicensed nature of business.
	Minimal encounter with the police.	
LICENSED SHEBEEN OWNER	Open till late without police harassment.	Have to consult with the neighbours when hosting events.
	No youth.	
	Get along with the neighbours.	

#### Advantages and disadvantages for shebeens operating in quiet areas

- Advantages for licensed establishments:
  - they are not frequently visited by youth,
  - shebeen owners can open till late without police harassment,
  - owner is on good terms with the neighbours.
- Advantages for the unlicensed shebeen environment:
  - customers have peace of mind,
  - owners have minimal encounter with the police.

The disadvantages are fewer. For the unlicensed shebeen, it is the police raid to the extent that a sight of a blue light vehicle would unsettle them. Whereas, the disadvantage for the licensed shebeen is that the owner needs the approval of his neighbours before hosting events. Normally they would oblige depending on the relationship the owner has with his neighbours.

*“I don’t have challenges; the advantage is that I can open for whoever wants to enter the premises late without any problems.”*

*Licensed shebeen owner, Gauteng*

*“I don’t have sufficient parking. When I have busy nights, fights that break out of my tavern are automatically assumed to come from here. Sometimes my clients get mugged or their cars are stolen.”*

*Unlicensed tavern owner, Dlamini, Soweto*

Only few unlicensed shebeens were found to operate in a busy area.

	Advantages	Disadvantage
UNLICENSED SHEBEEN OWNER	Next to the taxi rank and busy	Get raided from time to time (police harassment – they want permits and question trading times)
LICENSED SHEBEEN OWNER	Not applicable	Not applicable

No licensed shebeens were found to operate in a busy location. The main disadvantage for unlicensed shebeens to operate in busy locations has been that the shebeens become more susceptible to raids.

Although no licensed shebeens were sampled from busy locations, it does not mean that there are no licensed shebeens currently operating there.

*“The police harass us and want permit papers and they probe about the time I open and close my business.”*

*Unlicensed permit holder, Vosloorus, Gauteng*

## A 2.2.2 Availability of facilities

### A 2.2.2.1 Licensed shebeens

One of the licensing requirements is to have sufficient ablutions for customers in order for an application to be considered. Hence, a greater proportion of the sampled licensed shebeens have abundant and proper facilities. They have two or more facilities that separately cater for women and men, a feature that resonated mainly with licensed establishments.

Most shebeen premises are not air-conditioned, but owners said they do have fans for scorching hot days. All the on-consumption shebeens have chairs and tables for an organised seating arrangement

and convenient drinking. During summer and spring seasons, patrons have an option of sitting outside the premises where they will enjoy the fine weather.

The majority of the licensed on-consumption shebeens do not sell food. The owners who do not sell food say they once tried it, but have since stopped selling, because customers no longer buy the food. Only a few licensed and unlicensed shebeens sell solid food, snacks, light meals and township delicacies such as skopo and mangcina (sheep's head and trotters).

*"Vendors come normally on weekends and they sell Skopo and Mangcina."*

*Licensed shebeen owner, Zola Soweto*

*"I sell fish and chips, pap and chicken and other varieties."*

*Licensed shebeen owner*

#### **A 2.2.2.2 Unlicensed shebeens**

A marginal proportion of the unlicensed shebeens have only one toilet for both men and men, while those with two toilets sometimes use them interchangeably depending on which one is available. Shebeens that reported on one toilet only experience more conflicts, deriving from people passing out in the toilets, making it difficult for other customers to access them as drunken patrons sleep on the floor. Lack of abundant toilets has also resulted in customers urinating on the floor, while shared facilities resulted in acts of sexual misconduct.

The shebeen premises are not air-conditioned. They have chairs and tables for an organised seating arrangement and convenient drinking. During summer and spring seasons, patrons also have an option of sitting outside.

Some unlicensed shebeens operate as on consumption shebeens and have a vendor who visits the shebeen in the evening to sell food to the customers. Some shebeens rely on nearby spaza shops to sell food to their customers.

Some concoction manufacturers do sell food, while others do not.

*"My customers do get hungry, I sell fried fish."*

*Unlicensed Concoction manufacturer*

### A 2.2.3 Shebeen Licensing

Most shebeen owners apply for licences so that they can trade freely. The majority of unlicensed shebeens have at some point attempted to apply for a licence, while some pulled out of the registration process. Those who applied were declined due to lack of facilities at the shebeen. Facilities such as substantial space for customers to drink, gates, wall fences, security, abundant toilets and absence of proximity to places of worship are a requirement in order for a shebeen to be considered for licensing. The shebeen owners who pulled out of the registration process are said to have been discouraged by the red tape and costs involved. The processes involved in applying for licensing are believed to be daunting, while the cost is unaffordable for the owners.

*“Licensing is one big scam since I do not see any other benefit except that they won’t take my liquor.”*

*Licensed shebeen owner, Orlando, Soweto*

Unlicensed owners who did not apply for the licences stated various reasons:

- They know the requirements which include space, toilets, security and they do not meet them.
- Concoction manufacturers do not think a licence is important to their business

*“It is not very important especially when you sell traditional beer.”*

*Unlicensed concoction manufacturer*

Unlicensed shebeens view licences as their ticket to freedom. The advantage of being licensed to them is that they can buy liquor and have it delivered by the brewery at a cheaper cost. It also means that they can operate without fear of being raided.

The only disadvantage they mentioned with being licensed is that when licensed they cannot set their own prices or operate out of regulated hours.

Unlicensed shebeens are, however, at a disadvantage because they are more prone to raids. As the products raided are never returned, they lose their stock and money in the process and might never recuperate as a business. They also do not get promotional products which means that they do not qualify for discounts on certain alcohol.

## A 2.2.4 **The products**

### ***A 2.2.4.1 Products sold at licensed shebeens***

All licensed shebeens sell legally produced alcoholic beverages and spirits that are available in South Africa. These products range from beer, cider, brandy, whisky, wines, liqueur and gin. Beer has proved to be to be the most popular selling liquor product and is the most preferable to male customers in all shebeens as it appeals to the greater male clientele. Ciders and wine do not sell as quickly as beer. They appeal mainly to ladies, who prefer buying them in bulk (5 Litre box). Beer comes in different quantities, 750 mL, or 350 mL , or man-sized cans, and the consumers buy it more often.

Licensed shebeens buy their stock directly from the manufacturers SAB, Distell and Brandhouse who also deliver the products to them. All the distributors, namely SAB, Brandhouse and Distell, have unique transactional methods. SAB offers the customer stock on credit and the agreement is that they pay within a specific period with the delivery taking place on specific days. Distell and Brandhouse operate on a pay first then deliver basis. The challenge for the owners is that they sometimes run out of stock whilst waiting for their delivery from SAB due to high demand from customers at a particular time, such as month end and public holidays. The shebeen owner would then purchase alcohol at local taverns, bottles stores (Tops Spar) and wholesalers (Makro, Casban, Midway) that also sell alcohol in bulk.

Prices at licensed shebeens are regulated by the manufacturers, as part of their licensing requirements. This makes it difficult for them to inflate prices on their products. The other obstacle is that their customers know the prices as there many other licensed shebeens within their radius. The employees are also not knowledgeable about the exact mark-up applied to the liquor prices.

Challenges in purchasing beer from manufacturers are that they deliver on specific days, which means that between placing an order and delivery, the owner will need to buy a few cases of liquor at local taverns, bottle stores or wholesalers to meet the demand of his clientele while waiting for delivery.

Licensed shebeens sell the following categories of liquor:

- Beer: Amstel, Hansa, Castle, Carling Black Label, Castle Milk Stout, Castle Lite, Windhoek, Heineken and Peroni.
- Ciders: Hunters Extreme, Foundry, Hunter's Gold, Hunter's Dry, Red Square, Savannah, Brutal Fruit, Smirnoff Storm and Redds.

- Wines: Robertsons, Four Cousins, Namaqua.
- Spirits: J&B, Captain Morgan, Amarula, Gordon's Dry, Klipdrift, Smirnoff Vodka.
- Soft drink: juice and cold drink (used to dilute the potency of the spirits)
- Water

The 750 mL beer has also proved to sell more than 350 mL because it is cheaper. On promotions, products are usually sold at a lesser price, or go with freebies depending on the condition of the promotion. Promotions that took place during the research interviews offered customers a cap for purchasing whisky or any non-lager products. Free products include t-shirts, caps, jacket, etc.

The licensed manufacturers sometimes provides licensed shebeens with free fridges to store and display their products. These fridges have strict conditions attached, such as that they can only store the specific manufacturer's products and not competitor's products.

While the majority of licensed and unlicensed shebeen owners have displayed their willingness to accommodate customers who bring alcoholic beverages from other establishments, a few of them had reservations about the issue because they also want their own products to be sold. They also complained that sometimes customers who come with alcohol are already intoxicated and are mainly the cause of fights that might erupt.

#### ***A 2.2.4.2 Products sold at unlicensed shebeens***

Unlicensed shebeens operate differently from the licensed, as they buy their stock only from the local taverns, bottle stores and wholesalers. They transact on a cash basis. The owner derives means to ensure delivery of their own stock, either by using their own vehicle if they are buying from a wholesaler, or bottle store, and a trolley for top-up at local taverns, or delivery from the wholesaler. Unlicensed shebeen owners mark up their prices by between R2.00 and R4.00 per unit.

Liquor products that are available at unlicensed shebeens are as follows:

- Beer: Castle, Castle Lite, Hansa, Carling Black Label, Savannah, Amstel, Castle Milk Stout and malt
- Cider: Hunter's Dry, Bernini, Red Square, Brutal Fruit, Redds.
- Wines, Spirits, Soft Drinks
- Traditional Beer: Carton

Products that are not normally available at shebeens are only bought to meet the demand of specific clients. For example, if a client comes to a shebeen to buy Redds cider and it is not in stock, the

owner will take steps to make the product available to the customer by sending one of his employees to buy stock elsewhere.

The owners use their own fridge to store products. They are not eligible for promotional fridges, because they are unregistered.

Unlicensed shebeens had mixed reactions to customers bringing liquor from other establishments. While some are content with customers bringing liquor to drink that was not sold in their shebeens, some feel that it is unfair to them since they might have the same products in stock., Some only agree on condition that the customer buys some of their products.

The unlicensed shebeen employees have reported that Nyaope, a drug mixed with marijuana, heroin, antiretrovirals and (sometimes) rat poison, is sold and smoked at some unlicensed shebeens. Customers sell Nyaope to other customers, some of whom are already drunk.

Unlicensed concoction manufacturers have no employees. They brew, price and sell their own products, which are available in two flavours – Pineapple and original flavour. Their main ingredients are bread, yeast, brown sugar, malt and water for the original flavour, with pineapple and oats are added for the flavoured concoction. They purchase their ingredients at Shoprite and use different glass jar measures to determine their prices. They brew from their own residences and do not require transport. Concoction manufacturers refer to their product as traditional beer.

## A 2.2.5 **The Employee**

### ***A 2.2.5.1 Employees at licensed shebeens***

Licensed establishments have no fixed job description for employees. The employees swap their roles from time to time. The owner knows the employees' strength and weaknesses and is able to group them according to their abilities. For example, if a cleaner is able to work fast and respects the customers they can perform waitressing duties in the case of a staff shortage.

The nature of the responsibilities performed by licensed shebeen employees are cleaner, cashier, waiter, stock taker, bouncer, packer, chef and salesperson etc. Only licensed shebeens proved to hire the services of a disc jockey (DJ) to keep their customers entertained.

While some responsibilities are interesting and challenging, others pose a serious health threat to employees. Cleaners face a high risk of contracting illnesses. In licensed establishments, employees reported that owners take advantage of members of the community who drink concoctions. To make up for staff shortages during month end and holidays, employers use concoction drinkers to

clean the shebeen premises in return for alcohol and cigarettes. Customers who drink concoctions perceive beer to be a luxury for them, as it costs more than what they usually pay to drink.

*“It happens all the time; they clean and do the laundry.”*

*Licensed shebeen employee, Vosloorus*

*“The problem with paying alcoholics with cash is that they end up buying beer with the money anyway.”*

*Licensed Manufacturer Soweto*

The nature of work they perform makes them more susceptible to illnesses. They are expected to clean up after the customers who not only vomit, but also urinate on the premises.

Their trading hours are regulated and they can only work within specified shifts. The employees who start working at 11h00 do not work later than 22h00. Those who start at around 14h00 knock off at 02h00.

A greater proportion of people who work at licensed shebeens are paid more than R1000 a month. Some of the employees who are paid less, benefit from eating and residing at the shebeen.

Licensed shebeen employers rarely employ minors. A few shebeens reported that the owner’s offspring worked at the shebeen. Their responsibility is to clean, clear tables and to deal with money. They are most trusted by virtue of their relationship to the owner and are usually not remunerated for their efforts, as the profit generated in the business is channelled towards household spending and saving for their education. The children also get allowances to spend on clothes and at the hair salon.

#### ***A 2.2.5.2 Employees at unlicensed shebeens***

As in licensed establishments, the number of employees hired is dependent upon the workload, which is the result of more beer sales and location. For example, a large licensed shebeen operating in a busy area is likely to have more employees than a medium-sized unlicensed shebeen operating from a quiet location. The size of the shebeen is usually determined by the quantity of liquor purchased on a weekly, or monthly basis. On average, a medium-sized shebeen employs between three and six people, while a large one employs eight to twelve.

An unlicensed shebeen employee has no contract or job description, they juggle roles and responsibility. For example, a cashier in an unlicensed shebeen is not employed because of their good numerical skills or previous work experience, but because they have earned the shebeen owner's trust, or are family members. There is also no job security; the owners hire and fire as they deem fit.

Unlicensed shebeen employees have no contract or job description, the shebeen owner verbally states the responsibility of the employee, and how things are done in their shebeen. There is no paperwork involved to give the employees an idea of what their exact responsibilities are and they, therefore, have no point of reference.

The owner will decide on the trading hours and the employee's responsibility for a specific day based on work load and availability of staff. The employees do not have a platform (bargaining council) to present their concerns; to help ensure their job security and to handle cases of unfair labour practices in the shebeens.

A person employed in a shebeen has multiple tasks to perform. For example, an employee who cleans might be asked to clear up and serve the customers because the person who usually performs those duties is absent. They are prone to exploitation, as they have no representative and contract to protect them from unfair treatment. Unlicensed shebeen employees have no rights, they do as they are told, or they get fired.

The responsibilities performed by unlicensed shebeen employees are: cleaner, cashier, waiter, stock taker, packer and salesperson. Cleaners are exposed to health risks. Cases of employees being paid with liquor are rife in both licensed and unlicensed shebeens.

*"I earn on a fortnight and sometimes I am given beer instead of money; sometimes I steal R20 or R50 here depending on how busy it is."*

*Unlicensed shebeen employee, Soweto*

*"Sometimes the owner gives you booze, and will start counting the number of beers you drank when he should pay you. These deductions sometimes leave you with about R5.50."*

*Unlicensed Shebeen employee*

Their working hours are not specific and their knock-off time is determined by customers. If customers are in the shebeen, they continue working.

Owing to lack of employment contracts, the unlicensed shebeen employees work prolonged, irregular hours and are only paid for the number of days they work. Their wages are meagre and dependent upon the sales, which means, the more liquor sold the better the chances of earning a reliable wage. Their wages are also dependent on the owner, who decides how much a person gets paid and when they can get paid.

The majority of unlicensed shebeen employees earn more than R1000, and less than R2500 per month. The unreliable, low wages are the main contributors to theft. High incidences of theft were reported by employees themselves, who justified that they steal money from the owners to supplement their salaries. They usually pinch R5 coins several times in a month. They save the stolen money so that by the time they receive their living wage they are able to supplement it. The employees steal between R50 and R70 a month.

*“I earn on Fridays and the wage is not stable. The owner pays 200 per week. I survive by stealing from him.”*

*Unlicensed Shebeen employee*

*“Even the priest steals from his congregation sometimes. You can only survive when you steal from them.”*

*Unlicensed Shebeen employee*

*“I get paid on Mondays. The business is not registered so there are no bargaining councils to look out for employees’ interests.”*

*Unlicensed Shebeen employee*

Unlicensed shebeen employees indicated that age is not a deterrent for employing staff members. They work with minors as young as 10 years. Some minors who work at the shebeens are members of the family and are not remunerated by the owners. Local pupils are also employed on a part-time

basis during school holidays. Minors are employed to clear tables, serve the customers, pack the fridges and put away bottles and work as cashiers. Some are employed as spies to report any wrongdoings that take place on the shebeen premises.

*“We refer to the minors as intsara because they report on every wrongdoing.”*

*Unlicensed shebeen employee*

*“The owner’s child, who is ten, is the one who sells. He comes with me to buy stock and packs the fridge.”*

*Unlicensed shebeen employee*

#### **A 2.2.6 The Customer**

##### **A 2.2.6.1 Customer of a licensed shebeen**

###### **Age**

Licensed shebeen owners reported on servicing older and younger working and non-working clientele. The bouncers in their establishments see to it that underage children do not find their way into the shebeens by checking their age. Parents who send their children to buy liquor are the main problem.

*“The main challenge is people’s mindset because when I stop underage drinking they say now I’ve got money I don’t want to accommodate them, it’s absurd.”*

*Licensed shebeen owner, Soweto*

Licensed shebeen employees deny the owners’ statements by saying that they deal with underage drinkers on a daily basis. Employees take bribes from underage children who promise to leave the shebeen premises quickly after purchasing. When sent away, young children would get an older person to buy on their behalf, or they would come with older men, making it difficult to identify them or even chase them away.

*“Business men who cheat on their wives bring young ladies and spend lots of money on them. The owner likes such customers because they bring in a lot of money. And it’s wrong because we know some of them. It affects their families.”*

*Licensed shebeen employee, Vosloorus*

***Music preference***

Music sets the mood. The adage goes for liquor establishments as well. All the shebeens play music for their customers, with some playing specific genres of music, while others prioritise their client's preferences either by employing a disc jockey to play the music, or by placing a jukebox in their establishment. The DJs are central to shebeen conflicts as, sometimes they meet the needs of some customers and not others. The customer who has not been catered for would start complaining about preferential treatment from the DJ. The music at licensed shebeens is played at a reasonable volume, not too loud for customers.

A Jukebox, on the other hand, affords the customers the opportunity to decide on the type of music they would like to listen to.

Licensed shebeens are as inclined towards R&B and dance (kwaito, house) music as they are to soul music.

***The Dress Code***

The majority of licensed shebeens have no set dress code for either their employees or customers. They are very specific about what they do not want – All Star canvas shoes. Only few have a smart casual dress code for customers and formal white shirts and black pants for the employees.

***General Conduct***

A common feature at most licensed shebeens was the availability of security guards to oversee harmony on the premises. Licensed shebeens and taverns experience conflicts at a similar rate to their unlicensed counterparts. The products that customers drink, moreover, play a predominant role in their rowdy behaviour. The majority of troublesome customers proved to drink beer in larger quantities (750 mL). Customers tend to lose perspective and rationality under the influence of alcohol. Shebeens that have guards and bouncers in their employ ensure that conflicts are well managed. They achieve this by searching people regularly for weapons before they enter the shebeen and sending home problematic customers. When all means to prevent, manage, and stop fights are exhausted, only then are the police called in.

People who move from one shebeen to the other are found to be more likely to cause conflict, because they come to shebeens already drunk. The volume and nature of the products previously

consumed by the customer is unknown to the employees. Hence, some owners prefer not to sell to people who are already drunk.

Shebeens that cater mainly for more urbane customers have proved to have minimal incidences of fights.

*“Most people who drink Black Label lose control.”*

*Licensed shebeen employee, Soweto*

*“Customers do not fight often because most of my customers are civilised the ones that are likely to cause troubles are the ones that are not used to come to this place.”*

*Licensed shebeen owner Gauteng*

Employees are to a greater extent exposed to conflicts and customers passing out on the premises, and vomiting, to a lesser degree. Commonly, conflicts stem from harassment of a female employee by male customers. Conflicts that occur in a shebeen environment mainly involve females because males go to shebeens to liaise with them. Emotional and physical harassment directed at a female employee derives from male customers demanding cellphone numbers, chatting-up female employees, music preference, swearing and touching, using fake money, claiming to have given waitresses more money and refusing to leave shebeen premises at closing times. Incidences of customers who vomit and pass-out at premises are less prevalent.

*“If you step on someone’s foot they fight and if you apologise they become furious.”*

*Licensed shebeen employee Soweto*

#### **A 2.2.6.2 Customer of an unlicensed shebeen**

##### **Age**

Unlicensed shebeens also variously service older and younger, working and non-working clientele. The employers also denied ever selling liquor to underage drinkers. According to the owners, minors frequently try to sneak into shebeens and are always sent home. Unlicensed shebeen employers concur with their licensed counterparts on not trading to underage customers, despite their lack of security to control admission to their premises.

Generally, employees are at the forefront of the business, they interface with underage clientele. The majority of the underage customers fall into a young trendy group called izikhothane. This young

clientele has the greatest buying power and could buy liquor worth R200 at one go, which is lots of money spent at an unlicensed shebeen. While they are identifiably young, they buy enough liquor to fill shebeen tables, so the employees and the owner cannot afford to chase them away because they drive sales. The underage girls, on the other hand, look older and male employees find them irresistible. They look beautiful and their bodies are fully matured; while some children look older, some lie about who they are buying liquor for.

Unlicensed concoction manufacturers have no underage clientele. The concoctions they sell appeal mainly to the older market.

*“There are no cases of underage drinking where traditional beer is concerned.”*

*Unlicensed concoction manufacturer*

### ***Music preference***

Unlicensed shebeens play old school, ballad, fusion jazz to a lesser extent, while others are dominating the shebeen playlists. The music volume is set at a normal and acceptable level to avoid complaints from the neighbours. Fifty % of unlicensed concoction manufacturers play ballad and fusion while the other 50% plays jazz.

### ***Dress code***

The majority of unlicensed shebeens have no set dress code for their employees. While they emphasize neatness, they are totally against All Star canvas shoes. Tracksuits and sneakers are not allowed; and neither are boots, for safety reasons.

Unlicensed concoction manufacturers also do not have a dress code, but prefer clean and neatly dressed customers who epitomise their clean shebeens.

### ***General conduct***

Conflicts are inevitable in a tavern or shebeen environment, however unlicensed owners reported on the latency of conflicts, overcrowding and passing out of customers on their premises. According to owners, customers rarely become stubborn and disrespectful when drunk. In the event that a conflict occurs, the unlicensed owners, who do not have security guards or bouncers, intervene to dissolve the conflict, or they send the customers home.

Unlicensed employees refuted the employers' claims on a minimal conflict rate. For them, customers fight all the time, with one fight sometimes breaking out after the other on the same day. The

volume and nature of alcohol consumed determines the behaviour of the customer. For example, a customer in the highest state of inebriation is more likely to initiate conflict.

*“Customers behave badly because of the alcohol that we sell, which is African beer.”*

*Unlicensed shebeen employee, Zola, Soweto*

Shebeens are viewed as breeding grounds for brawls; with ladies as instigators of conflicts. These clashes are either directed at employees or customers. In all instances, customers are the ones who initiate trouble. Conflicts emanate as a result of customers forgetting change at shebeens and children buying wrong liquor products for their parents. Waitresses and female customers, alike, are exposed to physical and verbal harassment which ultimately leads to fights as some of the customers are accompanied by their partners. Male patrons swear, forcibly touch and at times spank females.

Male customers often entice girls with liquor for their undivided attention, while others expect sexual favours in return. A lot of sexual misconduct takes place in shebeen toilets. Lack of abundant toilets essentially contributes to customers behaving badly. Shared toilet facilities have, on a number of occasions, led to patrons engaging in sexual activities in toilets.

Overcrowding is caused by lack of controlled access into the shebeen. It is a problem to unlicensed businesses because when premises are packed, individuals’ movement are restricted. People continuously bump into each other. Shebeens are mostly overcrowded during month end, when working clientele have earned their salaries and are in a better position to demonstrate their financial prowess. Customers use their financial position to display their superior status and to disrespect other customers. When it is frantically busy, people tend to fight over anything like seats, alcohol, etc.

*“A guy will spank a girl who came to the tavern with a partner, a fight will ensue immediately.”*

*Unlicensed shebeen employee*

*“Customers do drugs and cause problems.”*

*Unlicensed shebeen employee, Zola, Soweto*

Shebeen employees indicated that they sometimes have to make arrangements for their drunken customers to be taken home depending on where they stay. Those who live near shebeens were taken home on foot, while those who live far away had a taxi arranged for them. There were only a few incidents where customers passed out on the premises and were left to spend the night in the shebeen, while some were locked outside. Some employees prey on drunken customers; they rob them before sending them home.

In concoctions establishments, the clientele is less belligerent, the older customers tend to sing, start preaching or showcasing their knowledge of the English and Afrikaans languages. Concoction shebeens serve the cheapest alcohol as most of their clientele are unemployed or work at part-time jobs (piece jobs) where they earn very little, or close to nothing. Shebeens which serve concoctions predominantly specialise in concoctions and no other liquor beverages are served.

### **A 2.3 Conclusions**

Majority of shebeens are unlicensed and unregulated and operate as on consumption shebeens.

They operate in unzoned areas, which makes them difficult to formalise.

They have no specific dress code but are entirely against sneakers, e.g. All Stars.

Failure to obtain licences makes it difficult for unlicensed shebeens to purchase liquor from the brewer and to grow their business, as other distributors and manufacturers sometimes require a licence number. As a result of being unlicensed, they do not qualify to buy liquor on credit. The consistent raids are also crippling their business as confiscated stock is never recovered.

Shebeen employees drink on duty. They steal from their employees and drunken customers.

Unlicensed shebeens encourage underage drinking by prioritising profits and accepting bribes at the expense of minors.

Underage children gain easy access to the shebeens because of poor, or no security guards to prohibit unauthorised entrance, and corrupt shebeen employees. Shebeens become overcrowded as a result.

The owners do not treat their employees fairly; they work for prolonged hours and are underpaid.

There is not a vast difference in the working conditions of unlicensed and licensed employees. While they both work for long hours, they also both have no bargaining council.

Females are not safe at the shebeens. The lack of abundant ablution facilities has resulted in high incidences of consensual casual sex and has put female customers at the risk of being sexually abused; while at the same time it exposes them to sexually transmitted diseases, as well as HIV/AIDS.

There seems to be a relationship between violence and lack of proper facilities (air-conditioners, toilets, security, seating arrangements and noise). People who drink in a noisy environment are not likely to keep tabs on how many drinks they take. When dance music (Kwaito & House music) is played at high volume, it can induce drunkenness.

Due to lack of walls and gates, customers' indecencies are exposed beyond shebeen premises, because some of them urinate in public.

Customers are stubborn and belligerent under extreme influence of alcohol.

Unlicensed shebeens have the highest incidences of conflicts because they have no specific trading hours and quota. The longer the shebeen is open, the more people arrive, causing overcrowding, which makes it difficult to move around. Due to their unspecified trading hours and registration status, they are also used as a platform for illicit trading.

## **A 2.4 Limitations**

Due to the specific regional focus on Gauteng, the insightful contributions of other provinces could have been missed.

The study was inclined towards shebeens and taverns; and has overlooked customers, who buy and consume liquor at their homes. The effect of their drunken behaviour on their family members, as well as the consumers' safety away from shebeens was disregarded.

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## Stakeholder Interviews

Black Economic Empowerment Unit (within the dti)	Jacob Maphutha Director: Black Economic Empowerment
Competition Commission	Gilbert Muzata Principal Analyst, Policy and Research Division
Department of Agriculture, Fisheries and Forestry (DAFF)	Wendy Jonker Deputy Director: Division Liquor Products
Industry Association for Responsible Alcohol Use (ARA)	Adrian Botha Director
National Liquor Authority (NLA)	Thezi Mabuza Head: NLA
South African Liquor Brandowners Association (SALBA)	Kurt Moore (CEO) Riaan Kruger (ex-CEO)
South African Liquor Traders Association (SALTA)	Saint Madlala CEO
South African Police Service (SAPS)	Brig. HL Lebese (Section Head: Liquor, Diverse, Miscellaneous) Col. Maureen Pretorius Col. Prego Pather
South African Revenue Service (SARS)	Alwin Jonas Specialist: Tobacco and beer