

**WHAT NEW ZEALANDERS TOLD THE
LAW COMMISSION'S
LIQUOR REVIEW**

Address to the Auckland Rotary Club

**The Auckland Club
Auckland**

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**Rt Hon Sir Geoffrey Palmer SC
President
Law Commission**

Introduction

In August 2008 the Law Commission was asked by the Government to review the law on the sale and supply of liquor.

The review was designed to be a top-to-toe review for the first time since Sir George Laking and his committee reported in 1986 leading to the Sale of Liquor Act 1989. The terms of reference are broad.

There had been a review in 1999 conducted by Sir John Robertson. This review concluded that liberalisation of the liquor laws had been a success. And the age of purchase was thereafter reduced from 20 to 18. Sunday trading was extended. And beer went in to supermarkets.

It has been unlawful to sell liquor without a licence for more than 100 years in New Zealand. That is not going to change.

At the end of July 2009 the Law Commission published its Issues Paper "*Alcohol in our Lives: Issues Paper*". Our terms of reference obliged us to:

"To prepare an Issues Paper for publication and take submissions on it, and to engage in extensive public consultation."

Consultation and Submissions

The Law Commission held about 50 meetings around New Zealand from Whangarei to Invercargill. We met in venues as diverse as cathedrals and Council Chambers, youth clubs and converted gang pads. Well over 1000 New Zealanders came to offer their views on the problems and possible solutions.

Many others came as concerned citizens with a vital interest in the community, and professional or business interests in liquor reform.

We heard from Black Power and Plunket. We heard from secondary school principals and publicans. We heard from grandmothers and students, doctors and economists.

The meetings around New Zealand were both targeted and public. The Alcohol Advisory Council of New Zealand (ALAC) assisted us with the targeted meetings, and we organised the public meetings.

Te Puni Kokiri and the Ministry of Youth Development also organised a number of meetings.

In addition, we have had many private meetings with interested parties and organisations. We have received about 3000 submissions.

We are in the course of analysing and studying these now. It is a formidable task.

We are obliged to table our report in the Parliament before the end of April 2010.

The government has sped up our review not once but twice because it wishes to legislate in the life of this Parliament.

Obviously, the Government is free to reject the recommendations from the Commission.

I thought I would offer some observations today on what the consultation process and the submissions are teaching us. I cannot say what our recommendations are going to be. The Commission is still formulating its position in the light of submissions.

What people said

It is plain that the stakeholders in this project range across a very broad spectrum of society. At one end are the manufacturers, retailers and hospitality sector whose businesses depend on the estimated \$85m New Zealanders spend on alcohol each week. At the other end are the Police, emergency workers, and specialist youth and health workers who deal with the harms arising from the misuse of alcohol.

In our Issues Paper we made it clear that the most acute forms of alcohol-related harm impact disproportionately on young people, Māori and Pacific people.

What our 278 page Issues Paper did was to try to analyse in depth, based on all the published research, what the problems in New Zealand were with alcohol.

That study concluded that New Zealanders have some serious problems concerning alcohol. In particular, it found that there were serious problems with what is known as binge drinking. That is to say, in terms of the ALAC guidelines, people who drink more than six standard drinks in a session if they are male or four if they are female.

We heard a lot about New Zealand's unhealthy drinking culture in the course of our public consultations. There was anger about it in some places and despair in others.

There did seem to be broad acknowledgement that drinking in excess is an inter-generational problem with deep roots in New Zealand's colonial history.

Even more serious was the sense that we picked up in many places, that for thousands of young people today drinking is no longer merely an adjunct to their social lives. It is the focal point of their social life. Drunkenness is not an occasional by-product of drinking. It is for many an end in itself.

Intoxication and the behaviours associated with it – violence, sexual assault, sexual promiscuity, offensiveness and anti-social behaviour were highlighted again and again as amongst the most pressing social issues confronting communities.

There were also comments about the general erosion of values, including a lack of self respect and respect for others, coupled with an absence of personal and parental responsibility.

Frequent reference was made to women's rapid rise to equality in the drinking culture.

Dr Judith Aitken, the former Chief Executive of the Education Review Office, told us in our Wellington consultation:

“The weekly spectacle of drunk young women on Wellington's streets, tragic evidence of this permissive environment, may demonstrate how far 21st century women have been freed from traditional social and behavioural constraints, but it can hardly be regarded as a triumph for feminism.”

Parents and law-makers came in for strong criticism as well for failing to set clear boundaries and failing to impose meaningful consequences for unacceptable behaviour.

We heard a lot from secondary school principals around the country, some of whom thought parents had to a large extent abdicated responsibility for their adolescents' drinking.

The environment in which alcohol is marketed came in for criticism at our meetings. Many said that the sale and use of this drug has been normalised to such an extent that it is regarded as another food. Yet it is no ordinary commodity. It is a drug.

The normalisation of alcohol in New Zealand life has proceeded at pace since 1989. Many were critical as well of the heavy commercial emphasis in trying to discount prices and sell more alcohol.

In Napier, a community worker told us:

“You tell us alcohol is causing us harm and is carcinogenic, but how can we expect young people to take this on board when they see the whole adult world turns on it?”

A Wellington addiction specialist told us as follows:

“Alcohol is advertised on television and other media – indicating it's an ordinary consumer commodity just like any other. Alcohol is sold without a warning label – indicating it's totally harmless, even for pregnant women. Liquor companies sponsor sport – leisure activities symbolising health and vitality which are a fundamental component of Kiwi culture. ... The underlying message conveyed to the public is this – alcohol is a safe, harmless, health inducing product that helps people enjoy life and have fun. The more you drink the more fun you will have.”

There is no question that the 1989 reforms brought many positive changes. These included a far more diverse and interesting dining and entertainment sector. But as a result of the highly competitive market created by the same reforms, access to and affordability of alcohol has increased significantly.

The latest New Zealand research published in October 2009 indicates that more than 1.4 million New Zealanders between the age of 16 and 64 engaged in binge drinking on at least one drinking occasion in the last 12 months.

More than 10 percent of the same population, that is 283,900 adults, did so *at least* weekly in the past 12 months.

The opportunities for purchasing alcohol have increased greatly since 1989. The number of licences allowing the sale of alcohol has doubled since the 1989 Act was passed. Between 1990 and 2009 the number of off-licence premises increased from 1,675 to 4,199 – an increase of 150%.

The density of outlets has meant that alcohol is much more widely accessible than ever before in New Zealand and has been “normalised” after more than 20 years among the foods sold in our supermarkets and grocery stores.

There was a great deal of criticism at our meetings about the lowering of the age in 1999.

Our consultations also revealed wide ranging support for restricting the number of licences under any new legislative regime. People were worried about:

- Irresponsible pricing and promotions.
- The impact the proliferation of liquor outlets had had on low socio-economic communities.
- The extent to which the proliferation of small suburban outlets has facilitated supply to young people, in particular children of school age.
- The extent to which outlets have degraded communities through advertising, billboards, graffiti, vandalism and anti-social behaviour associated with the sale of alcohol.

The consultation revealed a body of opinion that favoured removing alcohol altogether from supermarkets and returning to the pre-1989 era when it was sold only by specialist liquor outlets.

It was a widespread sentiment that competition between supermarkets had caused mass market price promotions and a driving down of the price of alcohol, rendering it indistinguishable from bread and milk.

Many in the hospitality industry expressed the view that aggressive promotion by supermarkets and the pricing of cheap alcohol had played a major part in the acceleration of drinking away from licensed premises.

There was a widespread sentiment that the tendency towards 24 hour trading had made alcohol-related harms worse.

There were many supporters of limiting the hours of off-licences and on-licences at a national level. The latter was much more controversial than the first.

There was a great deal of criticism of spirit-based drinks or RTDs as providing a gateway to adolescent drinking. This issue attracted heated debate at our meetings. While acknowledging that on the face of it these products were simply a convenient form in which to drink light spirits, many expressed the view that their high sugar contents, packaging and price were designed to mimic that of popular non-alcohol beverages.

No single issue galvanised the public to such a degree as the alcohol advertising and sponsorship issue. The Commission's treatment of the issue in its Issues Paper included the tentative suggestion that the current system of self-regulation under the Advertising Standards Authority should be largely left alone. This met with widespread criticism.

In many of the larger public forums there was strong support for applying a tobacco "smoke-free" model to alcohol with a ban on all advertising and a staged withdrawal of all alcohol sponsorship. There was extensive concern about how advertising helped shape a culture where drinking was seen to be the key to social and sexual success.

In many communities we found evidence that the communities themselves were taking action against what they thought was excessive use of alcohol. And indeed community is an important place for such actions to start, in the view of the Law Commission.

Many of the people at these meetings wondered why there was no requirement for advertisers and manufacturers to provide basic consumer information, such as the

number of standard drinks in a bottle, the recommended maximum intake and risks to pregnant women and the young.

Many believed that the widespread availability of alcohol at prices lower than many basic commodities was contributing to the culture of excessive drinking. In the late night entertainment precincts of the major cities it is clear that the majority of people visiting bars and clubs have already consumed shop-bought alcohol before coming into town.

This trend, referred to as front-end loading, is being driven in part by the relatively high cost of on-premise alcohol compared with off-premise alcohol.

When it came to price, there was quite a lot of support for increasing the price as being the most efficient way to reduce consumption and therefore harm.

But the publicans who attended our consultations were certainly not keen on this.

The need for increased personal responsibility in both consumption and sale of alcohol was a clear theme that emerged from the public consultation in every centre. Many expressed a strong appetite for the reintroduction of the offence of being drunk in a public place. This provision was repealed in 1981.

The current law allows the Police to take a person who is intoxicated and poses a risk to themselves to their home or a place of safety, often the cells. They did this on more than 21,000 occasions in 2007/2008.

We heard a lot about the problems with liquor bans. There are more than 160 by-laws around New Zealand that impose liquor bans and they have spread very rapidly.

Conclusion

Whatever policy recommendations the Law Commission makes, we are under no illusion that they will not change the New Zealand drinking culture overnight. The law cannot do that alone. It can help. It can nudge people towards a different way of looking at things.

But social attitudes, parental upbringing, personal beliefs and individual choices are the forces that drive the drinking culture. The law can shape and influence aspects of the culture but it cannot control it.

I have not wanted to paint a dismal picture of New Zealand in these observations based on our consultations. There are many positive aspects to recreational drinking in New Zealand.

It needs to be recognised that those who were moved to attend consultations meetings were often those with a story of personal or professional interest in the issues.

Their views are not necessarily representative of wider New Zealand.

That said, strong indications from media reports and opinion polls suggest that many New Zealanders believe the pendulum of reform may have swung too far.

Our challenge is to devise a suite of policies that may bring us back to a place where alcohol is no longer singled out as the number one problem for New Zealand Police.