

**Review of the Regulatory
Framework for the Sale and
Supply of Liquor
Submissions Analysis**

Law Commission

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Level 6, Mibar Building
85 Victoria Street
PO Box 24181
Wellington

TEL +64 4 473 3883
FAX +64 4 473 3884
www.litmus.co.nz

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1. Executive Summary

1.1 Background

In 2008, in response to growing public concern about the harms associated with the misuse of alcohol, the Law Commission was asked to review the law governing the sale and supply of alcohol. It subsequently embarked on the most fundamental review of the law since the Sale of Liquor Act 1989 was passed some 20 years ago.

The Issues Paper *“Alcohol in Our Lives. An Issues Paper on the Reform of New Zealand’s Liquor Laws”* (the Issues Paper) was prepared by the Law Commission. It outlined the way alcohol-related harm might be addressed under the three areas of supply control, demand reduction and problem limitation. It presented a package of reform that the Law Commission was tentatively considering recommending in its final report to Government due in 2010. The Issues Paper was released on 30 July 2009 to facilitate public debate and consultation.

1.2 Public consultation

The Law Commission’s consultation process involved:

- More than 50 public meetings (including with youth, Māori and Pacific people)
- A three month submissions process from 30 July 2009 to 30 October 2009.

The submissions process was guided by a summary of the Issues Paper. This detailed policy options available and requested submitters to respond to 30 prescribed questions.

In total, 2,951 written submissions were received; the largest number of submissions received by the Law Commission on any project, demonstrating a significant level of public interest and involvement.

1.3 Analysis of submissions

Litmus was commissioned by the Law Commission to analyse the submissions. Reflecting the significant number received, and the timeframe within which to analyse 2,951 submissions, two levels of analysis was undertaken:

- In-depth analysis of 147 substantive submissions was undertaken across eleven stakeholder groups, categorised as follows: Advertising and Marketing; Alcohol Industry; Hospitality Industry; Individuals; Local Government; Other Organisations; Police/ Law Enforcement; Researchers; Retailers; Treatment Providers/ Health; Youth. Submissions were selected by the Law Commission to ensure substantive representation across these groups. This detailed analysis provided an overview of the explicit position and key areas of focus across substantive submissions for all question areas and policy options. It enabled identification of key areas of focus for analysis of all 2,951 submissions.
- Analysis of all 2,951 submissions was undertaken across seven key areas identified as of particular importance to submitters, including: licensing; opening hours; purchase/ drinking age; types of premises and off-licences; tax and price; advertising; drinking in a public place.

1.4 Summary of key findings

The following section provides a summary of key findings and is divided into two parts: 1) A global analysis of the positions adopted by all 2,951 submitters across seven critical policy questions; 2) A complementary high level analysis of the positions adopted by the 11 different stakeholder groups on some of the critical issues.

Part I: What submitters said about seven key policy areas

The following analysis details the findings across seven key policy areas at a total submission level. It is important that this summary of findings is understood in the following context:

1. Percentages have been predominantly provided only for the highest concentrations of responses that have been given within each question area (as opposed to showing the percentages where only a small number of responses have been given).
2. Percentages noted represent submissions that have *explicitly* supported the policy option identified.
3. Percentages do not imply the level of disagreement with the proposed options. For example 47% submitters expressly support wider grounds to refuse a licence. This does not mean that 53% state a lack of support for this option. Rather the submitters that make up the 53% have made a range of other comments or have responded to other questions relating to the matter of licence criteria and grounds of refusal (e.g. the role of medical officers of health), reflecting submitters' particular areas of interest.
4. There is not an even number of submitters within each group. Therefore, the number of submitters taking a particular position may be shaped by the global number of submitters within each stakeholder group.

1.4.1 Licensing

The Law Commission's preliminary view on licence criteria and grounds for refusal

Currently the Act does not allow a licence to be declined on the basis of the number of existing outlets in an area. The Law Commission sees merit in empowering licensing bodies to refuse a licence on wider grounds than at present. It favours including for determination, an assessment of the suitability of the particular type of outlet in a particular area.

What submitters said

- 897 out of 2,951 submissions comment on licence criteria and objections. Of these:
 - 47% support changing the law to allow a refusal of licences on wider grounds.
 - 40% support refusal on the grounds that the social impact of the licence would be detrimental to the wellbeing of the community.

In-depth analysis of 147 substantive submissions identifies strong support across stakeholders to allow licensing decision-makers to refuse licences on wider grounds, particularly taking into account the social and health impact of the licence.

1.4.2 Opening hours

The Law Commission's preliminary view on retail hours

The Law Commission identifies that as much as two thirds of all alcohol bought in New Zealand is consumed away from off-licensed premises. The widespread availability of comparatively cheap alcohol from off-licenses has facilitated a trend towards drinking before frequenting licensed premises. This is contributing significantly to levels of intoxication and public disorder in many of the country's entertainment precincts. It also facilitates "topping up" after extended drinking sessions. The Law Commission proposes that all off-licenses close by law from 10 pm to 8 am. It also favours restricting on-licenses from selling liquor after 2 am, though with a standing extension to serve liquor until 4 am if the premises operate a "one way door: policy from say 1am as a condition of its licence".

What submitters said

- 1,139 out of 2,951 submissions comment on retail hours of trading. Of these:
 - 78% support restricting the opening hours of all off-licenses on a nationwide basis.
 - 51% support restricting on-licence premises from selling alcohol after a specified time on a nationwide basis.
 - 25% support a standing extension if a one way door policy is in operation.

In-depth analysis of 147 substantive submissions identifies strong support for restricting off-licence hours of trading. There is also support for restricting the trading hours of on-licenses, although opinion is divided on the form of this restriction.

1.4.3 Purchase/ drinking age

The Law Commission's preliminary view on the minimum age for the purchase of alcohol and drinking age

There is concern that young people experience more harm per drink than older people. The Law Commission's preliminary proposal favours a 'split purchase age' – leaving the minimum purchase age for on-licenses at 18 years, and increasing the minimum purchase age at off-licenses to 20 years.

What submitters said

- 2,266 out of 2,951 submissions comment on options relating to a minimum purchase/ drinking age. Of these:
 - 78% support an increase in the minimum purchase age.
 - 12% support a split purchase age.

- 3.8% support a minimum age to drink.

In-depth analysis of 147 substantive submissions identifies support for increasing the minimum purchase age or to introduce a split purchase age. There is little support to introduce a minimum age to drink.

1.4.4 Types of premises and off-licences

The Law Commission's preliminary view on restrictions on products and outlets

The Law Commission's initial position is not to extend the range of liquor outlets (e.g. petrol stations) or product range sold (e.g. spirits in supermarkets). Further, the Law Commission does not consider it appropriate for the law to make distinctions between liquor products. Instead the possibility is raised of the Minister of Health, on expert advice, banning certain products for health reasons.

What submitters said

- 1,937 out of 2,951 submissions comment on restrictions on products and outlets. Most focus on restricting the types of off-licence outlets. Of the 1,937:
 - 69% support specifying and further restricting the type of premises for which off-licences may be granted.

In-depth analysis of 147 substantive submissions identifies that opinion is divided on restricting products sold at off-licence outlets. There is support for restricting small grocery stores and dairies from selling liquor. However, how a small grocery store or dairy is defined is debated (e.g. floor size or type of business).

1.4.5 Tax and price

The Law Commission's preliminary view on pricing policies

The Law Commission identifies extensive international research as showing that tax or price measures that increase the price of alcohol products are effective in reducing alcohol-related harms. The Law Commission favours increasing New Zealand's excise tax and is interested in the public's view on minimum pricing.

What submitters said

- 2,013 out of 2,951 submissions respond to questions about price and tax. Of these:
 - 76% support introducing a minimum pricing per unit of alcohol.
 - 78% support increasing levels of current excise tax on alcohol.

In-depth analysis of 147 substantive submissions identifies support for both options.

1.4.6 Advertising

The Commission's preliminary view on advertising and marketing policies

The Law Commission proposes leaving the bulk of regulation to the Advertising Standards Authority (ASA), but introducing a regulation-making power in statute so that if self-regulation fails to promote responsible advertising, the Government can intervene quickly.

What submitters said

- 2,287 out of 2,951 submissions comment on advertising and marketing. Of these:
 - 86% support banning or restricting all advertising of all alcohol in all media.

In-depth analysis of 147 substantive submissions identifies similar support from researchers and the treatment industry/ health providers. Submissions from the advertising and alcohol industry and from retailers support no change to the regulation of alcohol advertising and marketing.

1.4.7 Drinking in a public place

The Law Commission's preliminary view on alcohol in public places

The Law Commission recognises the important purpose liquor bans have served in keeping order. However, it identifies that from a legal point of view, liquor bans are problematic. Making drinking in any public place an infringement offence has been identified as one alternative to liquor bans.

What submitters said

- 700 out of 2,951 submissions consider options relating to alcohol in public places. Of these:
 - 65% support the continuation of liquor bans dealt with by way of local authority bylaws.
 - 61% support reintroducing the offence of being drunk in a public place.

In-depth analysis of 147 substantive submissions identifies support for these options, with support also evident for the Police to issue an infringement notice for breach of a liquor ban.

Part II: High level analysis of the views of 11 major stakeholder groups on critical policy questions

The following presents a high level indication of the critical differences and agreements found among the major stakeholder groups.

The alcohol industry is a multibillion dollar sector with many facets ranging from growers and producers through to manufacturers, marketers, distributors, retailers and the hospitality sector. The industry also impacts heavily on the health, youth and criminal justice sectors. While the views on alcohol policies tend to reflect the specific interests of these different sectors, it is important to note that the groups are by no means homogenous. For example, the interests of manufacturers and the hospitality sector diverge from the views of alcohol retailers in some areas. Similarly those involved with enforcing the law may approach alcohol policies from a different perspective from those at the frontline of providing emergency and mental health services. The views of local government also differ and to varying degrees are shaped by local experiences.

Advertising and media. The key focus for these submitters is the advertising and marketing of alcohol. They consider that the current self-regulation of advertising is working well and provides adequate control of alcohol advertising. In opposing further restriction on alcohol advertising and marketing, submitters point to a lack of evidence establishing a link between advertising and misuse of alcohol, and no established evidence demonstrating that the implementation of bans or severe restrictions will address the misuse of alcohol. Submitters refer to the recent Review of the Regulation of Alcohol Advertising conducted in 2007 with the Government and industry currently in the process of implementing recommendations. Tighter controls identified include the recent adoption by the Advertising Standards Authority of a Code for the Naming, Labelling, Packaging and Promotion of Liquor.

Alcohol industry. Across submitters there is support for law reform that is derived from a strong evidential base and which will effectively address harms associated with the misuse of alcohol. The industry promotes the social and health benefits of alcohol and identifies alcohol consumption as an integral part of New Zealand's social and economic fabric. Their focus or support for reform is not to target the majority of responsible drinkers. Rather it is for the law to contribute to fostering greater individual responsibility and accountability to address practices that result in harmful drinking (including risky drinking practices of young people). Submitters consider that the current licensing system could do more to contribute to responsible drinking. Therefore there is support for the law to foster greater adult responsibility in the supply of liquor to young people and to allow decision-makers to refuse licences on wider grounds - a number of submitters promote a risk-assessment approach to licensing. As with stakeholders from the advertising and marketing sector, submitters believe that the current self-regulation of the advertising and marketing of alcohol is working well.

Hospitality. Hospitality stakeholders support the liberal and competitive environment for the sale and supply of liquor attributed to the 1989 liquor reforms. This coupled with effective penalties and enforcement is seen as an effective response to alcohol misuse and harm. Submitters believe that more needs to be done to achieve greater individual responsibility and accountability to reduce alcohol-related harm; though this not necessarily will be achieved through law reform. However, there is support for some policy options that promote greater individual responsibility – for example, reintroducing the offence of being drunk in a public place. Concern is also expressed at the discounting and promotion of cheap alcohol

products by off-licence premises and there is some support for specifying and further restricting the type of premises for which off-licenses can be granted. Submitters do support greater education and training requirements for frontline staff and managers of licensed premises. This is considered essential to addressing problems caused by alcohol misuse.

Individuals. Submitters in this group are diverse and include bar staff, parents of young people, family members of people adversely affected by alcohol and professionals across disciplines. Submitter positions therefore reflect this diversity. For example, a number of submissions concerned with widespread alcohol-related harm and a heavy drinking culture convey support for what has been identified as the “5+ Solution” which has been widely and publically promoted (increased tax and price; reduced accessibility; reduced advertising; increased drink drive measures). Conversely, the focus for a number of individuals working within the hospitality industry is the perceived disproportionate focus on generally responsible license holders vs. irresponsible individuals, as well as concern for practices encouraging harmful drinking outside of supervised licensed premises.

Law enforcement/ Police. The Police identify the significant impact that alcohol misuse has on policing, including violent offending, drink driving and offending involving young people. Submissions focus on the enforcement of liquor laws, reflecting the work undertaken by the Police. There is a concern that current enforcement tools are outdated and do not reflect the modern drinking environment. Police are also concerned at the penalties and issues around consistency for repeat offending by licensees. The Police support increased powers for Police to close bars, introducing infringement notices for minor breaches, bringing urgent hearings before the Liquor Licensing Authority and evidence other than analysis to be sufficient proof of alcohol content. The Police oppose reintroducing the offence of being drunk in a public place and the offence of drinking in a public place. There is concern about the effectiveness of such options and resulting enforcement implications.

Local government. Territorial authorities have a particular interest in alcohol-related harm as they typically play a regulatory role in liquor licensing, and support or undertake measures to reduce alcohol-related harm in their communities. They also identify the importance of recognising that alcohol approaches should be able to respond to local situations and needs, and to ensure community involvement in decisions relating to alcohol. Concern is expressed at the impact of resourcing on the consistency and effectiveness of enforcement. Accordingly there is support for strengthening the grounds for refusing a licence, including enabling a local focus via the use of local alcohol policies and assessing the social and health impact of a licence. Local government submitters also support increased penalties for minor and serious breaches of liquor laws and licence conditions and increasing licensing fees to better reflect the complete costs of granting a licence (i.e. monitoring and enforcement).

Other organisations. As with individual submitters, submissions from other organisations come from a diversity of organisations representing sectors such as: business; economics; religion; politics; family and children; liquor licensing; emergency services; resident’s associations. This is reflected in the diversity of views captured within this stakeholder group which range from those who view a number of the proposed policy options as penalising the majority of moderate, responsible drinkers and socially responsible suppliers and manufacturers, to those who believe that the level of alcohol-related harm justifies legislative reform to the extent proposed by the Law Commission.

Researchers. A number of submitters within this stakeholder group come from the health sector. The key focus is on alcohol harm prevention which is considered achievable if a multi-faceted approach is taken and responsibility taken by all of society to reduce alcohol-

related harm. The direction and proposals of the Law Commission are largely accepted with support for reform in relation to licensing refusals on wider grounds; restricting the hours within which alcohol can be purchased; increasing the minimum purchase age, and increasing excise tax. Banning or further regulating alcohol advertising and marketing is considered a crucial step, particularly to recognise that alcohol is 'no normal commodity' and as a measure to contribute to a reduction in harmful alcohol consumption particularly by young people.

Retailers. As with stakeholders from the alcohol industry and hospitality sector, stakeholders from the retail sector seek recognition of the important economic and social contribution of alcohol in society and the need to focus on the minority of harmful drinkers and individuals who promote harmful practices, rather than the responsible majority. Hence there is support for harm minimisation, but a need to ensure freedom of choice for consumers and to protect the economic interests of retailers. The 1989 liquor reforms are considered to have brought many positive changes. Rather than reform the law, a number of submitters believe that the appropriate focus is on enforcement and the promotion of personal responsibility.

Treatment industry/ health providers. As with researcher stakeholders, stakeholders from the treatment industry/ health sector identify the significant costs to society of alcohol misuse, including the substantial and long-term health-related harms. They identify the importance of a multi-faceted environmental approach. Submitters support many of the policy options proposed by the Law Commission. A particular stance is taken in relation to the advertising and marketing of alcohol. Alcohol advertising is seen to pervade many aspects of society, promoting alcohol consumption as the norm and increasing the likelihood of heavy drinking and drinking at a young age. As a result, submitters seek further restrictions or a ban on the advertising and marketing of alcohol.

Youth. Stakeholders within this group represent the interests of young people. Many submitters support law reform that will contribute towards changing the current drinking behaviours of young people and parents and adults. Concern is raised at the prevalence of harmful drinking by young people and particularly, the greater impact of consumption and harmful drinking on young people. Support is evident for a number of the options proposed by the Law Commission: allowing decision-makers to refuse licences on wider grounds; restricting opening hours of all off-licenses; minimum pricing and increased excise tax, banning or restricting alcohol advertising and marketing, and increased penalties for breach of licence conditions.

2. Introduction

2.1 Background

The primary instrument for controlling the sale of liquor in New Zealand is the Sale of Liquor Act 1989 (the Act). The aim of the legislation is to contribute to the reduction of liquor abuse¹. The fundamental means by which control is achieved by the Act is the requirement to have a licence to sell liquor.

A review of the Act was conducted in 1999 and concluded that liberalisation of the liquor laws had been a success. This resulted in changes to the way liquor is sold and supplied in New Zealand: the age of purchase was reduced to 18 years; Sunday trading was extended; beer and wine are now sold in supermarkets.

In 2008, in response to growing public concern about the harms associated with the misuse of alcohol, the Law Commission was asked to review the law governing the sale and supply of alcohol. This request was subsequently reaffirmed by the incoming Government.

The project embarked on by the Law Commission is the most fundamental review of the law on the sale of liquor since the Act was passed some 20 years ago. The Terms of Reference of the review are to:

1. Examine and evaluate the current laws and policies relating to sale, supply and consumption of liquor in New Zealand.
2. Consider and formulate for the consideration of Government and Parliament a revised policy framework covering principles for regulation.
3. Deal explicitly with a number of identified issues.
4. Prepare an Issues Paper for publication and take submissions on it, and to engage in extensive public consultation.
5. Prepare a final report, including the proposed new policy framework and draft legislation, so that people can judge accurately the precise effects of what is proposed.

As part of its preliminary consultation the Law Commission's liquor review team (including secondees from the Police, the Ministry's of Justice and Health and the Alcohol Advisory Council of New Zealand) met with a wide range of stakeholders and agencies. Law Commission staff also joined frontline Police and licensing inspectors in late night and early morning shifts in 17 different locations around the country.

The Issues Paper "*Alcohol in Our Lives. An Issues Paper on the Reform of New Zealand's Liquor Laws*" (the Issues Paper) was prepared by the Law Commission and released on 30 July 2009. It is a preliminary paper intended to help define the nature and extent of alcohol-

¹ Section 4(1).

related harm in New Zealand and to facilitate public debate. The Issues Paper outlines ways in which alcohol-related harm might be addressed under the three areas of supply control, demand reduction and problem limitation. It also presents a package of reform which the Law Commission is tentatively considering recommending in its final report to Government due in 2010.

The Law Commission has undertaken public consultation as part of the review. Litmus has been commissioned by the Law Commission to analyse the submissions received.

2.2 Consultation process

The consultation process involved:

- More than 50 public meetings attended by the Law Commission review team, and targeted face-to-face consultation meetings (including with youth, Māori and Pacific people) assisted by the Alcohol Advisory Council of New Zealand (ALAC)
- A three month submissions process from 30 July 2009 to 30 October 2009.

A summary of the Issues Paper detailed policy options available and requested submitters to respond to 30 prescribed questions.

2.3 Submissions received

In total, 2,951 written submissions were received, demonstrating a significant level of public interest and involvement in the review. This is the largest number of submissions received by the Law Commission on any project. Table 1 provides an overview of the submissions received.

Submitter groups	Number of submissions
Individuals	2,270
Non-government	366
Retailers	163
Local government	103
Industry	49

2.4 Analysis of submissions

Submissions received were thoroughly reviewed and analysed using thematic based coding. A coding frame was developed using the 30 questions detailed in the Issues Paper summary and the list of policy options. Additional codes were added when a theme was mentioned in more than five submissions. A code is defined as a comment, issue, or recommendation that was explicitly made in the submissions. Each submission was assigned one code or more, depending on the content of the submission. One-off relevant points made in the submissions were also noted.

Reflecting the significant number of submissions received and the timeframe within which to analyse 2,951 submissions, analysis of the submissions was undertaken across three tranches.

Tranche one and two: 147 submissions

1. In-depth analysis of 63 substantive submissions was first undertaken across the range of submitter audiences. These submissions were identified by the Law Commission to ensure a representation across major stakeholder groups. The findings of this analysis were presented to the Law Commission on the 16 November, 2009. This provided an overview of the explicit position and key areas of focus being taken across substantive submissions in all questions areas and policy options, and enabled identification of key areas of focus for analysis of all 2,951 submissions.
2. In-depth analysis of a further 84 substantive submissions (again selected by the Law Commission to ensure appropriate representation across stakeholder groups) was then undertaken across the range of submitter audiences for all question areas and policy options utilising the same coding framework and approach as for the first 63 submissions. This enabled validation of the consistency and strength of themes earlier identified.

As demonstrated by the following table, for the purposes of analysis, the 147 submissions were grouped according to submitter profiles:

Table 1: Profile and number of submissions	
Submission groups	Number of submissions N=147
Local government	42
Treatment industry/health providers	26
Other organisations ²	20
Individuals	13
Brewing industry (liquor industry)	9
Retailers	9
Youth	8
Researchers	8
Advertising (media)	7
Hospitality	3
Law enforcement	2

Please see Appendix 1 for a description of each submitter profile grouping.

Tranche three: 2,951 submissions

3. An analysis of all 2,951 submissions was undertaken across the following seven key areas identified as of particular importance to submitters in tranches one and two:
 - Ease of getting a licence
 - Hours of opening
 - Purchase age
 - Types of premises and off-licences
 - Tax and price
 - Advertising and marketing
 - Drinking in a public place.

² Includes organisations from diverse sectors including: business; economic; political; family and children; liquor licensing.

Reporting

This report considers the 2,951 responses to the seven key questions areas identified above, as well as presenting the key themes arising from 147 submissions analysed in the first and second tranche.

The report captures in a concise and exact form, key positions supported (or not) and presents the predominant rationale presented for the different views taken in the written submissions. The actual submitter numbers taking certain positions within the different audiences groups are also identified to provide a sense of “who said what”.

The responses from all 2,951 submissions lead the analysis of the seven key areas in the relevant sections of the report in order to provide a global view across all submissions received. Percentages have been predominantly provided to indicate the highest concentrations of responses that have been given within each question area (as opposed to showing the percentages where only a small number of responses have been given). It is important to understand the percentages presented in the following context:

1. Percentages noted represent submissions that have *explicitly* supported the policy option identified.
2. Percentages do not imply the level of disagreement with the proposed options. For example 47% submitters expressly support wider grounds to refuse a licence. This does not mean that 53% state a lack of support for this option. Rather the submitters that make up the 53% have made a range of other comments or have responded to other questions relating to the matter of licence criteria and grounds of refusal (e.g. the role of medical officers of health), reflecting submitters’ particular areas of interest.

The Law Commission intends to incorporate the submissions analysis findings within their final report. Supplementary to this report and held by the Law Commission, are the code frames and complete database of analysed submissions and supporting data tables, as well as the original coded 147 submissions.

2.5 Report structure

The Law Commission’s tentative views for law reform are presented in the Issues Paper across three overall sets of options: supply control, demand reduction and problem limitation. These options have been proposed on a preliminary basis, recognising that their proposal was made before all of the impacts (costs and benefits) had been identified. The report is structured to provide an overview of diverging positions within these three overall sets of options.

- Section three provides an overview of the level of explicit support for rewriting or amending the Act.
- Section four summarises themes on supply controls.
- Section five summarises themes on demand reduction.
- Section six summarises themes on problem limitation.

- Appendix 1 contains a description of the stakeholder groups within which the 147 submissions have been categorised.
- Appendix 2 contains an alphabetical list of the 147 submitters. A full list of submitters is held by the Law Commission.
- Bibliography.

3. Need for Reform?

3.1 Support for reform

The Law Commission's preliminary view

The Law Commission holds the view that the Act should be completely redrafted including the provision of more precise and specific objects.

Feedback across 147 submissions

58 out of the 147 submissions explicitly comment on the level of reform to the Act.

- 30 support completely rewriting the legislation.
 - 8 local government; 11 treatment/ health; 4 researchers; 3 others, 2 retailers and 2 youth.
- 15 support making the objects of the Act more specific as detailed in the Issues Paper.
 - 9 local government; 3 treatment/ health; 1 law enforcement; 1 researcher; 1 retailer.
- 14 suggest variations on the Law Commission objects, including
 - Minimising alcohol-related harm and improving public health. For the alcohol industry, their support of this object is balanced with the need to ensure emphasis is also placed on individual responsibility and accountability.
 - A system for sale, supply and consumption of liquor that considers the interests of all stakeholders including consumers, manufacturers, producers, retailers, health, welfare, law enforcement and social services.
 - Supplying liquor so that it contributes to and does not detract from the amenity of community life.
 - Considering the needs and aspirations of the community.
 - 5 local government; 5 treatment/ health; 1 alcohol industry; 1 hospitality; 1 other; 1 youth.
- 5 support no change or only amending the current legislation.
 - These submitters believe that the Act is satisfactory. However, focus is needed to ensure the Act is consistently applied and enforced.
 - In this context, three submitters support amending the Act to address issues of enforcement and compliance, especially proliferation off-licences, relative ease of getting a licence, and more resources to enforce existing laws together with higher penalties.
 - 1 alcohol industry; 1 local government; 1 other; 1 retailer; 1 hospitality.

3.2 Rationale for and against reform

3.2.1 Reasons for supporting reform

Feedback across 147 submissions

Local government, treatment/ health, researchers, retailers, youth and other submitters support the rewriting of the Act for the following reasons:

- The evidence on the level of alcohol-related harm justifies legislative reform (61 submitters).
 - *17 local government; 15 treatment/ health; 11 others; 5 researchers; 4 youth; 4 individual; 3 alcohol industry; 1 law enforcement; 1 retailer.*
- Focus is needed on an integrated, collective and environmental approach within which legislation has a key role to play (29 submitters).
 - *12 treatment/ health; 6 local government; 4 others; 2 researchers; 2 retailers; 1 alcohol industry; 1 law enforcement; 1 individual.*
- Alcohol-related harm is a collective responsibility (19 submitters).
 - *10 treatment/ health; 4 researchers; 2 others; 1 individual; 1 local government; 1 retailer.*
- Alcohol is no ‘ordinary’ commodity (18 submitters).
 - *7 treatment/ health; 4 local government; 3 other; 2 researchers; 1 individual; 1 youth.*
- A culture change is required in New Zealand in the way young people consume alcohol (13 submitters).
 - *4 local government; 4 alcohol industry; 2 treatment/ health; 1 other; 1 researcher; 1 youth.*
- Need for “5+ alcohol approach” (13 submitters). The “5+ approach” is a set of international evidenced-based policy directives to reduce alcohol-related harm, specifically to³:
 - Raise alcohol prices.
 - Raise purchase age.
 - Reduce alcohol accessibility.
 - Reduce marketing and advertising.
 - Increase drink-driving counter-measures.
 - Increase treatment opportunities for heavy drinkers in the New Zealand context.
 - *6 treatment/ health; 2 researchers; 2 local government; 2 individuals; 1 other.*
- The profoundly negative effect alcohol has had on Māori as a result of colonisation (8 submitters).
- Other reasons include:
 - The current Act and/or its application results in inconsistencies
 - The economic burden on health costs
 - The level of personal, family and community harm.

³ Barbor et al 2003 and Anderson et al 2009

3.2.2 Reasons for not rewriting the Act

Feedback across 147 submissions

The reasons given by a range of submitters for not rewriting the Act but merely amending include:

- Focus needs to be placed on ‘harmful users’, non-compliant licensees and density of licensed premises. In this context, proposed policy options are seen as penalising the majority of moderate, responsible drinkers and socially responsible suppliers and manufacturers.
- The current legislation is largely effective and there have been wider positive social and economic benefits for society (e.g. café style culture).
- The level of alcohol-related harm is overstated as since 1990 consumption based on volume of pure alcohol/ capita has remained relatively stable.
- There is no cost-benefit analysis on policy options without which the proposed policy options cannot be meaningfully evaluated.
- There is a lack of evidence that the policy options proposed will deliver desired outcomes.
- Alcohol-related harm is an individual and parental responsibility, therefore emphasis needs to be placed on increasing individual’s responsibility (33 submitters).
 - *8 local government; 7 alcohol industry; 6 retailers; 5 others; 3 individuals; 2 hospitality; 1 treatment/health; 1 youth.*

4. Supply Controls

As identified by the Law Commission, supply controls address the availability of alcohol, including outlet density, days and hours of sale, minimum drinking and purchase age and licensing controls.

4.1 Licence criteria: ease of getting a licence and grounds for refusal

897 out of 2,951 submissions comment on licence criteria and objections. Across the questions the highest number of responses relate to refusing licences on wider grounds:

- 47% support changing the law to allow the licensing decision-maker to refuse licences on wider grounds.
- 40% support allowing the licensing decision-maker to refuse the licence on the grounds that the overall *social impact* of the licence is likely to be detrimental to the wellbeing of the community.

In-depth analysis of the 147 submissions identifies strong support across stakeholder groups for allowing licensing decision-makers to refuse licences on wider grounds, particularly taking into account the social and health impact of the licence.

The Law Commission's preliminary view

The Act does not allow a licence to be declined on the basis of the number of existing outlets in an area. The Law Commission sees merit in empowering licensing bodies to refuse a licence on wider grounds than at present. It favours including for determination, an assessment of the suitability of the particular type of outlet in a particular area. The Law Commission also believes there is a need for greater community input into decision-making and greater consideration of the local impacts of liquor licences.

Global analysis: feedback across 2,951 submissions

897 out of 2,951 submissions comment on licence criteria and objections, and support widening the grounds for refusal, particularly taking into account the overall social impact of the licence:

- 47% support changing the law to allow the licensing decision-maker to refuse licences on wider grounds.
- 40% support allowing the licensing decision-maker to refuse the licence on the grounds that the overall *social impact* of the licence is likely to be detrimental to the wellbeing of the community.
- 9% support allowing the licensing decision-maker to impose any licence condition it considers appropriate.

In-depth analysis: feedback across 147 submissions

96 out of 147 submissions comment on the criteria for licence changes and grounds for refusal. There is strong support amongst local government and treatment/ health submitters for strengthening the grounds for refusing a licence, particularly in relation to decreasing the density of outlets and assessing the social and health impact of the licence. Support is also evident for other mechanisms to strengthen the grounds for refusal.

- 64 support changing the law to allow the licensing decision-maker to refuse licences on wider grounds.
 - 27 local government; 14 treatment/ health; 7 others; 5 retailers; 4 researchers; 4 youth; 2 alcohol industry; 1 law enforcement.
 - Submitters particularly mention the need to consider the social and/or health impact of the licence on the local community. However, some note that the preparation of a social impact assessment for all liquor licences may be cost prohibitive, especially for small rural businesses (e.g. licensed cafés or delicatessens). One smaller rural council suggests a social impact assessment should only be undertaken where the Liquor Licensing Authority (LLA) is considering an application contested on the ‘wider grounds’ basis.
 - Alcohol industry and retail submitters are more in favour of a risk assessment and impact statement for each new licence application (e.g. higher licence fees and shorter renewal periods for higher risk establishments). Risk could be assessed using the following factors: size and scale of premises, management policies, procedures and controls, on- or off- licence, nature of business, state of premises, opening hours, host responsibility, experience, compliance history of licence holders.
 - Alcohol industry submitters comment on the need for national consistency and standardisation in relation to licensing issues. They request the Law Commission to give due consideration to compliance costs on industry operators.
- 38 support allowing the licensing decision-maker to impose any licence condition it considers appropriate.
 - 16 local government; 13 treatment/ health; 3 others; 2 researchers; 2 youth; 1 law enforcement; 1 alcohol industry.
 - Some retailers are concerned that this may lead to unnecessary interference in the running of businesses.
 - Alcohol industry submitters comment on the need for a statutory requirement for the decision-maker to act reasonably, and for the applicants’ to have the right to get decisions tested by a higher authority.
- 24 support a better definition and strengthening of the suitability criteria for licence applicants, to ensure applicants meet high standards of social responsibility.
 - 10 local government; 8 treatment/ health; 2 retailers; 1 alcohol industry; 1 other; 1 researcher; 1 youth.
- 22 support authorising medical officers of health to report on licences and licence renewals.
 - 11 treatment/ health; 4 local government; 3 others; 3 researchers; 1 youth.
 - Some councils and treatment/ health submitters note the role of the medical officer of health is inconsistent throughout New Zealand. This reflects wide

variation in resources and support received by medical officers of health from District Health Boards and Public Health Units. This role therefore requires a clearer definition or removal. However, it is deemed appropriate for the medical officer of health to input into the development of local alcohol policies.

- 20 support widening the category of persons who can object to a licence application, in particular treatment and health submitters.
 - *9 treatment/ health; 7 local government; 1 law enforcement; 1 other; 1 researchers; 1 youth.*
 - One council notes the need to ensure the qualifying criteria is clearly set out in legislation (i.e. those who can object or support to include organisations and members of the public who can demonstrate they are or will be adversely impacted by or have particular knowledge or expertise about the application).
 - The need to retain the provision that prevents objections being made on the basis of new licensed premises prejudicing another licensed premises' commercial interest through competition.
- 30 support improving the effectiveness and efficiency of the process for notifying the public of licence applications.
 - *11 local government; 11 treatment/ health; 2 others; 2 researchers; 1 hospitality; 2 individuals; 1 youth.*
- 24 support communities having a more active and greater say, and for community views to be given more weight.
 - *11 treatment/ health; 6 local government; 3 others; 2 researchers; 1 individual; 1 retailer.*
 - The alcohol industry acknowledges the importance of community consultation. However, they are concerned that opening up consultation would increase costs and slow the licensing process. Their preference is for establishing a best practice, nationally standardised consultation program in the legislation with a focus on an agreed list of experts and stakeholder groups. Such an approach, they believe would provide greater certainty and result in more equitable business and social outcomes across the country.

4.2 Licence options

Local government and treatment/ health submitters, in particular support:

- The current licence types with the removal of the existing exemptions.
- Setting their own fees and the introduction of graduated and increased licence fees.
- Increasing the education, age and training requirements of managers, staff including door staff and owners of licensed premises.
- Clarifying requirements around managers of licensed premises.

4.2.1 Types of licence

The Law Commission's preliminary view

The Law Commission favours retention of the four types of liquor licences: on-licences, off-licences, club licenses and special licenses. It recommends that current exemptions for licences (e.g. chartered clubs, Police canteens, Parliament, defence premises, fire stations) should be removed, thus ensuring the law applies equally to all premises.

Feedback across 147 submissions

93 out of the 147 submissions comment on the current system of four types of liquor licence. Overall, those who comment support the current licence types with the removal of the existing exemptions.

- 40 support leaving four basic licence types.
 - 18 local government; 6 treatment/ health; 5 retailers; 4 alcohol industry; 2 hospitality; 2 others; 1 individual; 1 researcher; 1 youth.
- 50 agree with removing the existing exemptions to ensure national consistency so that all who sell and serve alcohol require an on-licence.
 - 24 local government; 12 treatment/ health; 5 other; 3 individual; 2 youth; 2 researcher; 1 law enforcement; 1 hospitality.
 - In contrast, those who are exempt under the current Act are keen to retain this provision. Arguments for retention include the importance of social networking to build cohesive teams and the lack of financial viability, if required to obtain a licence. The potential for conflict of interest and personal risks were also raised for law enforcement officers drinking off-duty at public bars.
- 10 support a single liquor licence with conditions added to it to reflect the business. These submitters perceive having a single licence as administratively simpler.
 - 5 local government; 2 individual; 2 other; 1 treatment/ health.
- 5 suggest two basic licences, an on- and off-licence with conditions to reflect the local alcohol policy and/or licensing agency requirement.
 - 2 treatment/ health; 1 other; 1 retailer; 1 youth.
- 7 suggest the Law Commission review 'special' licences to create greater clarity on activities requiring a special licence.
 - One submitter suggests adding the words "*for consumption*" to bring special licences in line with on-licences.
 - 5 local government; 1 other; 1 youth.

4.2.2 Fees

The Law Commission's preliminary view

The Law Commission recognises that there is a good case for local authorities to set their own licensing fees so that the actual costs of processing, monitoring and compliance are better reflected in the fees. However, if the national licence fee system continues, the Law Commission favours a graduated fee system to better reflect the relative risks posed by some licenses over others.

Feedback across 147 submissions

Local government submitters who comment are supportive of the introduction of graduated and increased licence fees.

- 34 support the introduction of graduated licence fees to reflect risk posed to the community by the relevant licence.
 - 16 local government, 9 treatment/ health; 3 other; 2 alcohol industry; 2 youth; 1 law enforcement; 1 researcher.
- 33 support increased fees to better reflect costs of granting a licence (e.g. processing, monitoring, compliance, and enforcement)⁴.
 - 21 local government, 7 treatment/ health; 1 alcohol industry; 1 individual; 1 law enforcement; 1 other; 1 youth.

Feedback from local government submitters differs on whether licence fees should be set locally or nationally. Most local government submitters who comment prefer locally set fees as this will ensure appropriate cost recovery. One council suggests that local authorities be able to charge for a proportion of the potential risk of community harm.

The few who prefer nationally set fees comment on the need for consistency of approach, and feel the graduated fee structure would enable cost recovery to be more accurately apportioned than at present. LGNZ also notes that any development of a nationally-set guideline on fees needs to consider the distance travelled for inspections as well as other factors.

4.2.3 Owners, managers and staff

The Law Commission's preliminary view

The Law Commission believes that improved training, education and character requirements for licensees, managers and other staff should be required.

⁴ Refer to Manukau City Council's submission clauses 46-48 for detailed discussion on fees.

Feedback across 147 submissions

The majority of local government submitters who comment are explicit in their support for increasing the education, age and training requirements of managers, staff and owners of licensed premises.

- 42 support increasing education, age and training requirements for managers, staff and owners of licensed premises. Suggestions include:
 - Preferred age for all staff on licensed premises to be 20 years to avoid manipulation or intimidation in supplying alcohol to minors or intoxicated people.
 - Increasing the education required by door staff on how to identify intoxication, manage conflict, check age and comply with legal responsibilities. One suggestion is having an NZQA unit standard for door staff or requiring them to gain a Licence Controllers Qualification.
 - Keeping a training register on all staff training so it can be inspected by enforcement agencies.
 - *22 local government, 10 treatment/ health; 2 hospitality; 2 other; 2 researchers; 2 youth; 1 law enforcement; 1 retailer.*
- 31 support clarifying requirements around managers of licensed premises. Suggestions include:
 - Allowing for more than one holder of a General Manager's Certificate but retaining the requirement of only one Duty Manager per licence. This will ensure the Duty Manager is clearly responsible for any breach of licence conditions.
 - Requiring large premises to have several managers on duty to cover the whole outlet.
 - Retailers are seeking clarity in relation to when a manager is not physically at a check-out but is still on premises (e.g. in a store room).
 - One retailer suggested having a comprehensive compliance programme standard written.
 - *14 local government, 9 treatment/ health; 2 other; 2 retailers; 1 hospitality; 1 law enforcement; 1 researchers; 1 youth.*

Feedback from an NZQA accredited training provider suggests the current system to train frontline staff and managers needs to be redeveloped. They suggest disestablishing the current Licence Controller Qualifications system managed by the Hospitality Industry Training Organisation. They recommend making it compulsory for all people working on licensed premises to have completed at a minimum, *unit standard 4645 – maintain a responsible drinking environment as a server in a licensed commercial environment*.

4.3 Licensing decision-makers

Amongst local government and treatment/ health submitters, in particular there is support for:

- The retention of a well resourced LLA with extended powers and functions.
- Enhanced powers and functions of the DLAs with an underlying intent to developing greater consistency.
- The development of local alcohol policies, although there is divergence in opinion on whether they should be mandatory or discretionary, how they are developed and their relationship to the LLA.

4.3.1 Liquor Licensing Authority (LLA)

The Law Commission's preliminary view

The Law Commission proposes enhancing the LLA's powers and functions so that it can be proactive in enforcing the law. This includes enhancing its resource base. The Law Commission believes that the LLA should continue to be presided over by a District Court Judge.

Feedback across 147 submissions

87 out of 147 submissions comment on the LLA. The majority of submissions support the retention and resourcing of the LLA with enhanced powers and functions.

- 62 support retaining the LLA as the specialist regulator with the following enhanced powers and functions:
 - Monitor and report on trends and adjust aspects of sale policy like promotions.
 - Award costs.
 - Impose fines on licensees, managers and staff of licensed premises for breaches of any of the provisions of the Act.
 - Enhance the flow of data from inspectors, Police, District Licensing Agencies (DLAs), medical officers of health, and licensees.
 - Implement quality control of DLA output and compliance; although some local government submitters are opposed to this extension of power.
 - Oversight of local alcohol policies with law and best practice. A recommendation was also made that the new Act require the LLA to take local alcohol policy into account in their decision-making rather than making the policy paramount. Treatment/ health submitters are supportive of the LLA developing national policy guidelines to establish effective practice regionally and allow the system to be responsive to local communities' needs.
 - *26 local government; 12 treatment/ health; 7 other; 5 retailers; 3 researchers; 3 alcohol industry ; 2 individuals; 2 youth; 1 law enforcement; 1 hospitality.*

Other less frequently mentioned comments about the LLA include:

- Empowering the LLA to issue statements to DLAs on administering the Act (11 submitters).
- Ensuring the LLA is appropriately resourced to be effective in a wider role (12 submitters).
- Removing lay membership of the LLA and establishing a position for another sitting Judge.
- Replicating the current panel of two lay members and a District Court Judge in three districts covering the upper North Island, the lower North Island and the South Island. This approach would ensure greater knowledge and appreciation of local alcohol policy and the local licensing environment as well as offer more efficient and timely decision-making.

4.3.2 District Licensing Authorities (DLAs)

The Law Commission's preliminary view

The Law Commission recognises the extreme variability of performance of DLA's across the country. It suggests that the powers and functions of DLA's are restructured and enhanced.

Feedback across 147 submissions

86 out of 147 submissions comment on the DLAs and local alcohol policies. In the main, across local government submitters there is support for DLAs to have enhanced powers and functions.

- 37 support enhanced powers and functions for DLAs:
 - Requiring higher levels of performance and reporting from DLAs.
 - Allowing local authorities to keep the fines imposed as a result of their prosecutions.
 - Providing for mandatory training for their inspectors/ members to create greater consistency and standardisation.
 - Enabling the setting of fees for the issuing of licences to allow the DLAs' functions to be performed effectively. Some councils do not support this power as it could lead to inconsistencies and inefficiencies. To overcome this risk, the suggestion was made to introduce minimum and maximum rates.
 - Ensuring that DLAs' decisions are independent of the council. A few councils note that the DLA is a statutory committee therefore members should compromise elected council representatives to ensure consistency of decision-making.
 - Specifying by statute the membership of the DLAs.
 - *23 local government; 9 treatment/ health; 2 others; 1 law enforcement; 1 retailer; 1 youth.*
- 18 submitters note the need for greater consistency across DLAs, and that the LLA should be the ultimate authority.
 - *6 treatment/ health; 3 local government; 3 others; 2 hospitality; 1 alcohol industry; 1 law enforcement; 1 retailer; 1 researcher.*

- Concerns were raised, especially by retailers, of the potential for a proliferation of different community based rules and regulations, if veto powers were extended to local councils. This scenario would result in increased compliance costs for retailers who operate across the 73 territorial authorities.
- 8 support the status quo of not changing the current powers and functions of the DLA.
 - 2 local government; 2 youth; 1 hospitality; 1 individual; 1 other; 1 retailer.
- 6 support abolishing the DLA and a central function be retained by the LLA or a specially established Tribunal.
 - 2 local government; 2 treatment/ health; 1 individual; 1 youth.

4.3.3 Local alcohol policies

The Law Commission's preliminary view

The Law Commission believes that every district council should have a local alcohol policy that is approved both by the council and the LLA.

Feedback across 147 submissions

There is support for the development of local alcohol policy as a mechanism to ensure the community are more involved in decisions relating to alcohol.

- 54 support the development of the local alcohol policies against which DLAs must assess licences.
 - Some councils suggest that the adoption of the policy be via the special consultative procedure detailed in section 83 of the Local Government Act 2002. Using this defined process would ensure fair reflection of the community's views.
 - 25 local government; 8 treatment/ health; 4 others; 4 retailers; 3 alcohol industry; 3 researchers; 3 youth; 2 individuals, 2 law enforcement.

While there is support for the local alcohol policies, there is divergence of opinion on:

- Whether the policies are mandatory or discretionary. Mandatory policies are seen as placing greater emphasis on their importance and the potential for greater consistency. In contrast, preference for discretionary policies reflects the expense for smaller local authorities in developing these policies. One suggestion is to develop a single alcohol policy covering a district to simplify administration. Several local authorities mention the need to have access to a dedicated funding stream to develop the policy, and manage and enforce liquor licensing (as similar to the Class 4 Gambling Licences).
- Whether local alcohol policies are to be regarded as a plan or a policy⁵. Some councils cite a preference for a local alcohol policy as it would then sit with other policies developed (e.g. Gambling Venue Policies).
- The relationship of local alcohol policies to the LLA. Some council and treatment/ health submitters note it would be inappropriate for the LLA to approve all local alcohol policies as it devalues the planning process. In contrast, the alcohol industry

⁵ Submissions used the terms 'policy' and 'plan' interchangeably.

prefers the LLA to approve each policy to ensure consistency and compliance with the Act. Further, the Act should establish the matters that *must* be included in the policy and the matters that *may* be included.

- When the public should be consulted about a licence application. One council suggests that the public should only be consulted when an application is inconsistent with the local alcohol policy. As a result, consultation fatigue would be avoided.

4.4 Restrictions on retail outlets hours of trading

1,139 out of 2,951 submissions respond to the question of retail outlet hours. Most responses relate to imposing nationwide restrictions. Of these:

- 78% support restricting the opening hours of all off-licences on a nationwide basis – for example from 8 am to 10 pm, or 10 am to 10 pm.
- 51% support restricting on-licence premises from selling alcohol after a specified time on a nationwide basis.
- 25% support providing for a standing extension to serve alcohol until 4 am if the premises operate a one way door policy.

In-depth analysis of 147 submissions identifies strong support for restricting off-licence hours of trading. Submissions support restricting the trading hours of on-licences, although opinion is divided on the form of this restriction.

The Law Commission’s preliminary view

The Issues Paper notes a trend toward extended hours, which is leading to increasing problems for Police. Of concern is the numbers of people purchasing typically much cheaper alcohol at off-licences and drinking at home or on the streets, before frequenting licensed premises. The Law Commission proposes an approach that seeks to encourage people off city streets, and facilitates a staggered departure from licensed premises. Its preference is for all off-licences to be closed by law from 10 pm to 8 am. It also favours restricting on-licences from selling liquor after 2 am, though a standing extension to serve liquor until 4 am if the premises operate a “one way door: policy from say 1am as a condition of its licence”.

4.4.1 Opening hours of off-licences

Global analysis: feedback across 2,951 submissions

There is strong support for restricting the opening hours of off-licence premises. Out of 1,139 submitters who respond to the issue of opening hours:

- 78% support restricting the opening hours of all off-licences on a nationwide basis - for example from 8 am to 10 pm, or 10 am to 10 pm.

In-depth analysis: feedback across 147 submissions

109 out of 147 submissions comment on the off- and on-licence hours. Across submitters, there is support for restricting the opening hours of off-licences.

- 88 support restricting the opening hours of all off-licences on a nationwide basis.
 - Treatment/ health submitters in particular see limiting the availability of alcohol at off-licences as effective strategy reduce harm.
 - Opinions differ on preferred opening hours of 8am to 10pm or 10am to 10 pm.
 - *27 local government; 21 treatment/ health; 10 others; 8 individuals; 7 researchers; 5 retailers; 5 youth; 2 alcohol industry ; 2 law enforcement; 1 hospitality.*
- 7 support no change to off-licence hours as there is a preference for hours to be consistent with trading hours.
 - Concerns are raised about local alcohol policies determining hours as this could lead to inconsistency. Further, it may have the unintended consequence of consumers driving out of town to purchase alcohol resulting in greater instances of drunk-driving. Any reduction in hours needs therefore to be considered nationally and not locally or regionally.
 - *2 retailers; 2 individual; 1 alcohol industry; 1 other; 1 youth.*

4.4.2 Opening hours of on-licences

Global analysis: feedback across 2,951 submissions

Submissions support restricting the trading hours of on-licence premises; with some variance as to the form of this restriction. Of the 1,139 responding to the question of hours:

- 51% support restricting on-licence premises from selling alcohol after a specified time on a nationwide basis.
- 25% support providing for a standing extension to serve alcohol until 4 am if the premises operates a one-way door policy
- 6% support allowing each territorial authority to specify policies regarding opening hours and conditions around opening hours in a local alcohol policy.

In-depth analysis: feedback across 147 submissions

Across submissions, there is support for restricting on-licence premises from selling alcohol after a specified time. However, there is variance in how this occurs and the exact closing time.

- 43 support restricting on-licence premises from selling alcohol after a specified time on a nationwide basis.
 - Opinion varies across submitters around preferred closing times of 1am, 2 am or 3am.
 - Treatment/ health submitters prefer that hours are set as a maximum; although the LLA could prescribe more restricted hours if in line with local alcohol policies.
 - *18 treatment/ health; 10 local government; 4 others; 4 researchers; 2 individual; 2 youth; 1 alcohol industry ; 1 hospitality; 1 law enforcement.*
- 42 support providing for a standing extension to serve alcohol until 4 am, if the premises operates a one-way door policy whereby patrons can remain on the

premises, but patrons cannot enter the premises after a specified time, for example from 1 am or 3am, as a condition of its licence.

- Preference varies on the specific timing of the policy.
- Concerns are raised that the implementation of a one-way door policy would result in significant pressure being put on transport and policing resources if multiple establishments closed at the same time.
- 18 local government; 13 treatment/ health; 5 researchers; 2 individual; 2 youth; 1 other; 1 retailer.
- 30 support, particularly local government submitters, allowing each territorial authority to specify policies regarding opening hours and conditions around opening hours in a local alcohol policy, and require the licensing decision-maker to take this into account in licensing decisions.
 - 21 local government; 4 treatment/ health; 3 other; 1 hospitality; 1 law enforcement.
 - In contrast, others note that territorial authorities should not be able to specify longer opening times in their local alcohol policy than the national standard.
- 10 support having nationwide standard trading hours, but allowing on-licence trading outside these hours if the licensee can satisfy the LLA that it has a plan to manage the risk of harm and contribute to the costs to the local community associated with extended hours.
 - 3 local government; 3 youth; 2 other; 2 treatment/ health.

4.5 Restrictions on products and outlets

1,937 out of 2,951 submissions comment on the option of restrictions on products and outlets. Most of these submissions focus on restricting the types of off-licence outlets. Of these:

- 69% support specifying and further restricting the type of premises for which off-licences may be granted.

In-depth analysis of 147 submissions identifies that opinion is divided on restricting products sold at off-licence outlets. There is support for restricting small grocery stores and dairies from selling liquor. However, how a small grocery store or dairy is defined is debated (e.g. floor size or type of business).

The Law Commission's preliminary view

The Law Commission's initial position is not to extend the range of liquor outlets (e.g. petrol stations) or product range sold (e.g. spirits in supermarkets). Further, it does not view it appropriate for the law to make distinctions between liquor products. Instead the possibility is raised of the Minister of Health (the Minister), on expert advice, banning certain products for health reasons.

4.5.1 Restrictions on products sold at off-licence outlets

Global analysis: feedback across 2,951 submissions

Submitters focus their comments more on the issue of restricting premise type versus product. However, in relation to product, submitters are divided on restricting products sold at off-licence outlets. Of the 1,937 who comment on restrictions on products and outlets:

- 6% support no change to the current rules about supermarkets and grocers selling liquor.
- 5% support prohibiting the sale of some or all alcohol products currently able to be sold by supermarkets and grocery stores (e.g. beer and wine).

In-depth analysis: feedback across 147 submissions

80 out of 147 submissions comment on product restriction at off-licence outlets. Amongst those who comment, opinion is divided on restricting products sold at off-licence outlets. Some advocate for no changes in the rules of prohibiting supermarkets from selling spirits. Others advocate for further prohibition on products sold, or for the Minister to be able to prohibit products.

- 36 support no change to the current rules about supermarkets and grocers selling liquor.
 - *18 local government; 5 other; 5 treatment/ health; 4 retailers; 2 alcohol industry; 1 individual; 1 youth.*
- 24 support providing a regulatory power to prohibit the sale of undesirable liquor products based on expert recommendations to the Minister.
 - These submitters acknowledge that new products continue to be developed therefore the law must be flexible enough to deal with any products that are deemed a serious health risk.
 - *10 treatment/ health; 6 local government; 3 others; 2 researchers; 2 youth; 1 hospitality.*
- 21 support prohibiting the sale of some or all alcohol products currently able to be sold by supermarkets and grocery stores (e.g. beer and wine)
 - These submitters are in the main seeking the removal of all alcohol products from supermarkets and grocery stores.
 - In considering the sale of beer and wine in supermarkets, some submitters propose that as alcohol is not an ordinary commodity it should be placed in an opt-in location in store and not be promoted or positioned near everyday grocery items. In contrast, retailers comment that establishing a separate closed-off location for beer and wine in store would be cost prohibitive.
 - *7 treatment/ health; 3 local government; 3 individuals; 2 researchers; 2 retailers; 2 youth; 1 hospitality; 1 other.*

42 out of 147 submissions comment on banning particular alcohol products.

- 10 support the banning of particular alcohol products, specifically RTDs.
 - *4 local government; 2 individual; 2 treatment/ health, 1 other; 1 researcher.*
 - This reflects their perception and concern that RTDs are being marketed inappropriately via taste, pricing and presentation to the youth market.
 - Alcohol industry submitters highlight that RTDs are pre-measured, relatively low alcohol strength and premium priced; therefore they are unlikely to be the drink of choice of those who abuse alcohol. On this basis, RTDs should not be banned.
 - Others note that no alcohol is inherently bad, but it is the inappropriate use and abuse which causes problems.

4.5.2 Restrictions on types of off-licence outlets

Global analysis: feedback across 2,951 submissions

There is support for further restricting the type of premises for which licenses may be granted. Indeed, across the 2,951 submissions, support for further restriction is significantly more evident. Out of 1,937 submissions:

- 69% support specifying and further restricting the type of premises for which off-licences may be granted.

In-depth analysis: feedback across 147 submissions

67 out of 147 submissions comment on restricting the types of off-licence outlets. Across submitters, there is support for further restricting small grocery stores and dairies from selling liquor. However, how a small grocery store or dairy is defined is debated (e.g. floor size or type of business). Some, in particular treatment/ health submitters, support that liquor should only be sold in dedicated liquor stores so alcohol is removed from supermarkets. While some treatment/ health submitters would prefer this option, they acknowledge it is unlikely to happen so seek to limit other outlets being able to sell alcohol.

- 37 support specifying and further restricting the type of premises for which off-licences may be granted.
 - 13 local government; 10 treatment/ health; 5 other; 4 youth; 2 alcohol industry; 2 hospitality; 1 researcher.
 - Submitters are focused on addressing the proliferation of small grocery stores and dairies from selling alcohol and preventing other types of premises to gain an off-licence. A clear definition of a grocery store is therefore required. A range of mechanisms are suggested including 200 or 1000 square metres of retail floor, and location to other licensed supermarkets or grocery stores.
 - A transition measure is also suggested for grocery stores currently holding a liquor licence who will not meet the new definition (when agreed) until their current licence expires or after 12 months, whichever is longer.
 - One dairy/ small grocery representative is expressly opposed to restricting the types of premises for which an off-licence can be granted. Such action is viewed as contrary to the concepts of a free market economy and democratic society of all rules applying to all citizens and businesses.
- 22 support confining off-licence sales to dedicated liquor stores only.
 - These submitters are keen to remove alcohol from supermarkets due to loss leading marketing strategies being used which is perceived to increase alcohol-related harm.
 - 7 treatment/ health; 4 local government; 4 researchers; 3 others; 2 youth; 1 alcohol industry ; 1 hospitality.
- 8 support no change to the status quo on the restrictions of off-licence outlets.
 - 3 local government; 3 retailers; 1 other; 1 treatment/ health.
- 8 support, irrespective of type of premises, allowing an off-licence to be issued provided the application meets the general licence criteria.
 - 5 local government; 1 other; 1 retailer; 1 youth.

4.6 Minimum age for purchase of alcohol and drinking age

2,266 out of the 2,951 submissions respond to the matter of minimum age restrictions. Increasing the minimum purchase age is the area where the highest levels of responses are provided. There is little support for a minimum age to drink. Of the 2,266 responses:

- 78% support an increase in the minimum purchase age.
- 12% support a split purchase age.
- 3.8 % support a minimum age to drink.

In-depth analysis of 147 submissions identifies support to increase the minimum purchase age or to introduce a split purchase age. There is little support to introduce a minimum age to drink.

The Law Commission's preliminary view

The Law Commission is concerned with scientific evidence suggesting that the earlier one starts to drink the greater the later alcohol-related problems. There is also concern that young people experience more harm per drink than older people. The Law Commission's preliminary proposal favours a 'split purchase age' – leaving the minimum purchase age for on-licences at 18 years, and increasing the minimum purchase age at off-licences to 20 years. It is considered that this option will assist to reduce the supply of alcohol to people under 18 years, while still allowing 18 and 19 year-olds the freedom to drink at licensed premises where there are responsible serving practices.

Global analysis: feedback across 2,951 submissions

Across the 2,951 submissions there is strong support for increasing the purchase age. Support for a split purchase age is less strong. There is little support for a minimum drinking age. Out of the 2,266 submitters responding to the question of age:

- 78% support an increase in the minimum purchase age.
- 12% support the split purchase age.
- 4% support a minimum age to drink.

In-depth analysis: feedback across 147 submissions

116 out of 147 submissions comment on minimum purchase age. Overall, there is support for increasing the minimum purchase age (ideally to 20 years) or to introduce a split purchase age. There is little comment on introducing a minimum age to drink.

Purchase age

- 52 support an increase in the minimum purchase age.
 - While there is variation in the suggested purchase age, 20 years appears to be the main preference. The latter reflects that 20 year olds are likely to be less connected to secondary school students, unlike 18 year olds. Consequently, it is assumed 20 year olds will be less likely to purchase alcohol for those aged under 18 years.
 - 19 treatment/ health; 8 local government; 7 researchers; 6 individuals; 6 other; 4 youth; 2 law enforcement.

- 47 support the split purchase age.
 - 26 local government; 7 treatment/ health; 3 alcohol industry ; 3 other; 2 researchers; 2 retailers; 1 hospitality; 1 individual; 1 law enforcement; 1 youth.
 - Local government perceive a split purchase age as a pragmatic and workable solution balancing community and individual rights.
 - For treatment/ health submitters the split purchase age is very much their second preference. That is, if it is not feasible to increase the minimum purchase age to 20 years, only then does the split age become the acceptable option.
 - In contrast, a few treatment/ health submitters strongly oppose the split purchase age as it sends a mixed message about what is safe and appropriate.
 - Researchers and treatment/ health submitters note that there is no evidence to support the effectiveness of this option. Thus if introduced, this policy option will need to be evaluated.
- 22 support mandatory age verifications for the sale of alcohol.
 - 9 local government; 7 treatment/ health; 2 alcohol industry; 2 youth; 1 other; 1 retailers.

Minimum age to drink

- 18 support a minimum age of 18 years to drink to avoid confusion for minors. The only exception is where the liquor is supplied by a parent or guardian.
 - 8 local government; 3 treatment/ health; 2 hospitality; 2 other; 2 youth; 1 individual.
- 9 submitters strongly oppose a minimum age to drink as it will be problematic to enforce and will shift the onus to young people with potentially detrimental effects.
 - 4 alcohol industry; 2 treatment/ health; 1 law enforcement; 1 local government; 1 other.

4.7 Other supply control themes

Specific days on which alcohol cannot be sold

65 out of 147 submissions comment on this topic. Amongst those who comment there is more support for the status quo on the days on which alcohol cannot be sold. The key area for change is offering greater clarity on when prohibition begins.

- 29 support no change.
 - 11 local government; 7 treatment/ health; 3 youth; 2 individual; 2 others; 2 researchers; 2 retailers.
- 14 support the status quo but want the hour at which prohibition begins to be clearly specified (e.g. 2am).
 - 8 local government; 5 treatment/ health; 1 other.
- 10 support the sale of alcohol from all types of licensed premises on all days of the year including current prohibited days.
 - 3 local government; 2 alcohol industry; 2 individuals; 2 others; 1 youth.

Greater parental or guardian responsibility

87 out of 147 submissions comment on greater parental and guardian responsibility. Amongst those who comment, there is support for greater parental responsibility in supplying and supervising alcohol consumption. Further across stakeholder groups, there is support for making it an offence for an adult who is not the parent or guardian to supply liquor.

- 39 support making it an offence for an adult to supply liquor to a young person other than that adult's child or ward.
 - 14 local government; 7 treatment/ health; 5 youth; 4 other; 3 researchers; 2 alcohol industry ; 2 individuals; 1 law enforcement; 1 retailer.
- 38 support making it an offence for an adult to supply liquor to a young person other than that adult's child or ward without the consent of a parent or guardian of the young person.
 - 15 local government; 7 treatment/ health; 6 alcohol industry ; 4 others; 2 researchers; 2 retailers; 1 individual; 1 youth.
- 38 support making it a legal requirement for adults supplying alcohol to a young person to supervise the consumption of the alcohol.
 - 17 local government; 9 treatment/ health; 5 other; 2 law enforcement; 2 researchers; 1 alcohol industry; 1 hospitality; 1 youth.

Licence renewal options

44 out of 147 submissions comment on licence renewal options. Local government submitters who comment tend to prefer no change to the status quo.

- 22 support no change of which 14 are local government
- 11 support creating a “permanent” licence for licensees who have shown there are no issues with their performance in adhering to the regulatory regime, and where no change in licence conditions is sought. The licence would be reviewed if there was a complaint from the public or at the instigation of the Police, a licensing inspector or a medical officer of health.
- 7 support providing for three-yearly applications for renewals of licences, but removing the requirement to advertise the application for renewal unless changes to the licence conditions are sought.

Licensing trust options

16 out of 147 submissions comment on licensing trust options.

- 7 support no change of which 3 are local government.
- 3 support allowing competition in the licensing trust areas where there currently is exclusive rights to grant on-licences and off-licences.

5. Demand Reduction

The Law Commission identifies demand reduction measures as those which seek to reduce alcohol misuse and levels of harm. Measures include minimum pricing and excise tax, and policies relating to the promotion and marketing of alcohol.

5.1 Pricing policies

2,013 out of 2,951 submissions comment on tax and price. Most responses relate to an increase in excise tax and introducing minimum pricing. Of the 2,013 submissions:

- 76% support regulating the pricing of alcohol by introducing a minimum pricing per unit of alcohol.
- 78% support increasing levels of current excise tax on alcohol.

In-depth analysis of 147 submissions identifies support for both increasing excise tax and introducing minimum pricing.

The Law Commission's preliminary view

The Law Commission identifies extensive international research as showing that tax or price measures that increase the price of alcohol products are effective in reducing alcohol-related harms. The Law Commission favours increasing New Zealand's excise tax, though by how much remains to be determined. It also favours reducing the tax on low alcohol products (less than 2.5% alcohol) as a means to encourage consumption of products with lower versus higher alcoholic content. It is interested in the public's view on minimum pricing.

5.1.1 Tax

Global analysis: feedback across 2,951 submissions

Submissions support an increase in excise tax, though only a small number (5%) explicitly support a decrease in tax for low alcohol products. 2,013 out of 2,951 submissions comment on tax and price. Of these:

- 78% support increasing levels of current excise tax on alcohol.

Feedback across 147 submissions

For those commenting specifically on tax-related measures, there is support for increasing excise tax and pledging excise tax towards the costs associated with alcohol-related harm. There is also widespread support across the submissions for reducing the tax on low alcohol products.

- 51 support increasing current levels of excise tax on alcohol.
 - 18 treatment/health; 12 local government; 6 researchers; 5 other; 5 youth; 3 individuals; 1 hospitality; 1 retailer.

- Submissions cite organisations and evidence identifying alcohol tax as an effective public health tool for reducing alcohol-related harm (i.e. World Health Organisation information). Tax increases are viewed as directly influencing reduced amounts of alcohol consumption. In particular, higher excise tax is considered as an effective measure to reduce harmful drinking by young people, with young people identified as being particularly sensitive to price. Some submitters also see an increase in excise tax as necessary to cover costs associated with alcohol-related harm and able to contribute to initiatives to minimise harm.
- 40 support pledging some or all excise tax collected from alcohol to expenses and costs associated with alcohol-related harm (i.e. treatment, research, law enforcement, education and health promotion).
 - 18 local government; 12 treatment/health; 4 researchers; 4 youth; 2 other.
- 43 support reducing tax on low alcohol products.
 - 15 local government; 7 other; 7 treatment/health; 6 alcohol industry; 3 retailers; 2 researchers; 1 hospitality; 1 individual; 1 youth.
- 8 expressly oppose increasing excise tax (some industry, retailers, local government and other submitters) and query the availability of evidence demonstrating that increased tax is an effective measure to reduce alcohol-related harm.
 - Submissions opposing an increase in excise tax argue that raising tax would unfairly penalise the majority of moderate responsible drinkers, and would have little impact on harmful drinkers who are less price sensitive. One submitter also identifies that current excise tax levels already outweigh costs of harmful drinking. Submitters are concerned at a lack of evidence to show that increased tax would impact on alcohol-related harm or reduce the amount of alcohol consumed by young people or heavy drinkers. One submitter calls for a proper economic cost/benefit analysis to be undertaken by Treasury.
- Similarly, some submitters hold-off taking a position on this option, calling for further evidence demonstrating that desired outcomes will be achieved. For example, while there is overall support across local government to *review* rates to ensure they are achieving policy aims and that the percentage of alcohol is reflected in tax rates (as identified in LGNZ's submission), there is a desire for more information to be made available. There is also some concern that:
 - A price-based tax will encourage consumption of poor quality products and have a limited effect on discounting prices.
 - Excise tax can be absorbed by industry and is a blunt tool that is less effective than minimum pricing options. Raising excise tax therefore needs to be considered in conjunction with other controls.

Most submissions were silent as to the question of *how much* tax levels should increase. For those who did comment, there is a diversity of view. Some argue for a minimal increase only so as not to penalise the moderate drinker, or that tax should be in line with inflation. Others indicate that the increase should be sufficient to cover the costs of alcohol-related harm.

Note: Some submissions comment that if tax-related measures are implemented, it will be important to evaluate the impact of such measures in relation to outcomes desired.

5.1.2 Price

Global analysis: feedback across 2,951 submissions

Submissions support the introduction of minimum pricing. Of the 2,013 out of 2,951 submissions that comment on tax and price:

- 76% support regulating the pricing of alcohol by introducing a minimum price per unit of alcohol.

Note: A number of submissions specifically supported the introduction of minimum pricing in relation to alcohol products sold at off-licenses only (as opposed to on-licences). Their specific focus is the need to address cheap pricing and below-cost selling practices which are considered more prevalent by off-license premises.

In-depth analysis: feedback across 147 submitters

For submissions commenting on price, there is widespread support for introducing a minimum price per unit of alcohol and for further controls on the price of alcohol.

- 65 support regulating the pricing of alcohol by introducing a minimum price per unit of alcohol.
 - 20 local government; 17 treatment/health; 7 other; 6 researchers; 5 individuals; 5 youth; 4 alcohol industry; 1 retailer.
 - Introducing a minimum price per unit of alcohol is favoured because it will address the problem of uneven buying power. This will effectively reduce cheap pricing and prevent below-cost selling and loss leaders, thus removing the ability of retailers to heavily discount products.
 - It is a measure that is seen as directly able to help reduce harmful drinking. The availability of alcohol to young people will be reduced by preventing the low cost provision of cheap alcohol which is regarded as more likely to contribute to youth and binge drinking. Submitters identify that it will also deter young people from buying products with higher alcohol content (such as RTDs). Minimum pricing will also remove incentives to bulk-buy.
- 33 support prohibiting the sale of alcohol as a loss leader.
 - 16 local government; 6 treatment/health; 4 other; 4 youth; 1 alcohol industry; 1 researcher; 1 retailer.
- 28 support restricting the discounting of alcohol products.
 - 10 local government; 7 treatment/health; 5 other; 3 youth; 2 researchers; 1 alcohol industry.
- 28 support prohibiting off-licence price promotions that create an economic incentive for consumers to buy large amounts.
 - 12 local government; 8 treatment/health; 3 other; 3 youth; 1 law enforcement; 1 researcher.
- 9 explicitly oppose (some alcohol industry; individuals; local government; retailers; other) or query available evidence to support the use of pricing measures to reduce the amount of alcohol consumption.
 - As with increasing excise tax, these submitters are concerned at a lack of evidence (i.e. cost/benefit analysis) demonstrating particularly the impact on

heavy drinkers who are considered less 'price sensitive'. There is concern that it will be the majority of moderate drinkers who will be penalised by this approach.

Police and some local government submitters also mention potential enforcement issues around discounting and loss leaders and increased enforcement costs associated with these measures.

Note: As with tax measures, some submissions comment that if price-related measures are implemented, it will be important to evaluate the impact of such measures in relation to outcomes desired.

5.2 Marketing and advertising policies

2,287 out of 2,951 comment on the advertising and marketing of alcohol. A large number of submissions respond to the option of further restricting or banning all advertising:

- 86% support banning or restricting all advertising of all alcohol in the media.

In-depth analysis identifies similar support, particularly by researchers and the treatment industry/health providers. Submissions, particularly from the advertising and alcohol industry and from retailers support no change to the regulation of alcohol advertising and marketing.

The Law Commission's preliminary view

The Law Commission proposes leaving the bulk of regulation to the Advertising Standards Authority (ASA), but introducing a regulation-making power in statute so that if self-regulation fails to promote responsible advertising, the Government can intervene quickly.

Global analysis: feedback across 2,951 submissions

There is strong support to further regulate, ban or restrict alcohol advertising and marketing. Indeed across these submissions, there is less support for alternative frameworks or processes to regulate advertising and marketing. Rather the focus is on further restriction or an outright ban. Of the 2,287 out of 2,951 submissions that commented on alcohol marketing and advertising:

- 86% support banning or restricting all advertising of all alcohol in the media.
- 32% support banning alcohol-related sponsorship of sporting and other events.
- 22% support banning all marketing/promotion to young people.
- 19% support banning all promotion of alcohol.

Support to maintain the status quo is less strong:

- 6% support no change to self-regulation.
- 6% support no change to promotional advertising.

Feedback across 147 submissions

115 out of the 147 submissions comment on whether there should be further restrictions on the way alcohol is marketed. Overall, submissions either favour leaving regulation with the ASA, or support some form of further regulation, or ban or restrictions on advertising and marketing.

- 24 support no change to self-regulation.
 - *8 alcohol industry; 6 advertising; 5 retailers; 2 individuals; 1 hospitality; 1 other; 1 youth.*
 - These submitters perceive the current system of self-regulation to work well and to provide adequate control of alcohol advertising: it provides an efficient and transparent complaints process; complaints are processed in a timely manner; penalties are effective and can be significant for the advertiser. The interpretation of applicable codes controlling advertising is up-to-date and reflective of what is considered acceptable by society. Self-regulation also ensures a high degree of engagement with industry which is seen as crucial to setting and maintaining appropriate standards in all advertising.
 - Submitters also refer to the Review of the Regulation of Alcohol Advertising undertaken in 2007, with the Government and industry in the process of implementing recommendations. The ASA has adopted a Code for the Naming, Labelling, Packaging and Promotion of Liquor in October 2009, along with an appropriate management structure and financial resources (fully funded by the industry). This Code will ensure that packaging, product names, sales promotions and sponsorship are subject to the same principles and constraints as mass media advertising.
 - Submitters also point to a lack of evidence establishing a link between advertising and misuse of alcohol, as well as there being no established evidence demonstrating that the implementation of bans or severe restrictions will reduce the misuse of alcohol.
- 36 support banning or restricting all advertising of all alcohol in the media.
 - *15 treatment/health; 7 local government; 4 other; 4 researchers; 3 youth; 2 individuals; 1 alcohol industry.*
- 32 support banning alcohol-related sponsorship of sporting and other events.
 - *11 treatment/health; 7 researchers; 4 other; 4 youth; 3 local government; 2 individuals; 1 alcohol industry.*
 - Submitters are concerned that alcohol sponsorship of clubs and events is not covered by present Codes of Advertising Liquor and that there is no related complaints system, despite sponsorship being an important means of promoting alcohol brands and drinking.
- 26 support establishing a legal framework and statutory body to regulate specific marketing relating to packaging, promotion, point of sale placement and the display of alcohol products.
 - *10 local government; 9 treatment/health; 2 researchers; 2 other; 2 youth; 1 retailer.*
- 23 support banning all marketing/promotion to young people.
 - *8 treatment/health; 6 researchers; 4 local government; 4 other; 1 individual*
- 22 support establishing a legal framework and statutory body to regulate and control liquor advertising.
 - *8 treatment/ health; 6 local government; 3 other; 3 researchers; 2 youth.*

- 21 support adopting the French “Loi Evin” approach.
 - 8 treatment/health; 6 researchers; 3 local government; 2 other; 1 individual; 1 youth.
- 11 expressly disagree with a ban or further restrictions on advertising.
 - 6 advertising; 2 alcohol industry; 2 retailers; 1 other.
- Only 4 submissions (all local government) support introducing a reserve power in statute for government to intervene for lack of compliance with the current self-regulatory system.

Submissions supporting further regulation, or a ban or tighter restriction on the advertising and marketing of alcohol (irrespective of whether or not they consider the current process to work well) disagree that the system of self-regulation is the right model.

Because the industry self-regulated model is reactive and a complaints-based system, it is considered inadequate to address overall exposure to alcohol advertising and unable to deliver public health goals. The complaints-based system is considered to be one that encourages advertisers to go to the limit of what is permissible, considers advertisements on a one-off basis and does not consider matters such as the overall density of advertising and related exposure.

Some submitters propose a tobacco-style ban on advertising. They consider that this would shape attitudes and play an important role in changing acceptable drinking culture in New Zealand, particularly for children and young people.

6. Problem Limitation

The Law Commissions identifies problem limitation as “*minimising the impact of harmful consumption through such measures as better enforcement, drink drive policies, health sector interventions, and curbing alcohol in public places.*”

6.1 Alcohol in public places options

700 out of 2,951 respond to options relating to alcohol in public places. Submissions mostly focus on the continued use of liquor bans or reintroducing the offence of being drunk in a public place. Of the 700:

- 65% support the continuation of liquor bans dealt with by way of local authority bylaws.
- 61% support reintroducing the offence of being drunk in a public place.

In-depth analysis also identifies support for these options, with support also evident for the ability of Police to issue an infringement notice for breach of a liquor ban.

The Law Commission’s preliminary view

The Law Commission recognises the important purpose liquor bans have served in keeping order. However, it identifies that from a legal point of view, liquor bans are problematic - it is difficult to know what the law is in any given place and time. Making drinking in any public place an infringement offence has been identified as one alternative to liquor bans.

Global analysis: feedback across 2,951 submissions

Maintaining liquor bans and reintroducing the offence of being drunk in a public place are the two options well supported across the 2,951 submissions received. Of the 700 out of 2,964 submissions that comment on options relating to alcohol in public places:

- 65% support the continuation of liquor bans dealt with by way of local authority bylaws.
- 61% support reintroducing the offence of being drunk in a public place.
- 28% support creating an offence of drinking in a public place.

In-depth analysis: feedback across the 147 submissions

88 of the 147 submissions have responded to the matter of alcohol in public places. Around half of these submissions indicate a preference for the retention of liquor bans. Similarly, there is support for creating an offence of being drunk in a public place.

- 49 support the continuation of liquor bans dealt with by way of local authority bylaws.
 - Liquor bans are considered relatively successful and assist in reducing alcohol-related offending and disorder. They are also favoured as they are a local measure developed in response to local needs. Local authorities are able to implement liquor bans in known problem areas and in conjunction with the knowledge of local Police. They also require community input.

- *20 local government; 9 treatment/health; 5 individuals; 5 other; 3 retailers; 2 researchers; 2 youth; 1 alcohol industry; 1 hospitality; 1 law enforcement*
- Some local government submissions raise issue with the financial burden of signage which councils have to maintain at regular intervals along the perimeter of a liquor ban area. Costs relate to the frequent need to repair or replace signs to ensure a liquor ban remains enforceable.
- Other submissions discuss liquor bans in relation to local alcohol policies. Some consider that liquor bans could be dealt with by way of local alcohol policies, removing liquor bans from the requirements related to bylaws (including the mandatory use of the special consultative procedure). Others mentioned that bans should be consistent with local alcohol policies.
- 33 support providing Police with the power to issue an infringement offence for breach of a liquor ban, with the reserve power of arrest for the purposes of safety of persons.
 - *15 local government; 7 treatment/health; 3 youth; 2 other; 2 retailers; 1 hospitality; 1 individual; 1 law enforcement; 1 researcher.*
- 40 support reintroducing the offence of being drunk in a public place.
 - This is seen as an option able to assist in changing a current harmful drinking culture by providing a clear message to communities and young people in particular, that intoxication is not acceptable, not 'normal' and is not tolerated. To this end the offence will increase personal responsibility and act as a disincentive to harmful drinking. From some council's perspective, it will also avoid the costs and time associated with liquor bans (public consultation phase and liquor ban signage) and provide national consistency. Suggestions relating to the development of the offence include:
 - Use of the definition 'intoxicated' vs. drunk in a public place.
 - Use of the LLA assessment procedure to determine intoxication.
 - Providing a wide definition of 'public place' to cover for example private car-parks.
 - The need for exemptions for public events and for places and premises included in a liquor licence.
 - *17 local government; 7 treatment/health; 5 other; 3 individuals; 2 hospitality; 2 researchers; 2 retailers; 2 youth.*
 - Conversely the Police and some local government submissions convey reasons for specifically not supporting the reintroduction of the offence of being drunk in a public place (nor drinking in a public place), including that:
 - Criminalising personal behaviour will not have a deterrent effect on individuals (the current focus on suppliers is the appropriate one).
 - There is no compelling evidence to show that criminalising drunkenness stops people becoming intoxicated.
 - The Police would not have the ability to enforce these offences appropriately. Non-enforcement could damage perceptions of the Police.
 - Considerable Police and Court time would be required.
 - It would bring a significant number of people into the criminal justice system, and affect particular populations (including youth).
 - There would be a significant increase in calls to the Police, likely to occur at peak times when demand is already high for Police services.
 - 'Being drunk' is likely to be challenged and result in defended hearings.

- Drunk people are likely to disregard infringement notices or may become disorderly or aggressive when issued with a notice.
- Existing legislation to ensure safety is sufficient (Summary Offences Act 1981, s36 of the Policing Act 2008).
- Other submissions raise concern about resulting enforcement issues; the impact of such an offence on people’s decisions to walk home when drunk (vs. drive) and the disproportionate impact such a proposal would have on specific populations.
- 27 agree that where the Police have reasonable cause to suspect that a beverage contains alcohol, and have taken steps to ascertain this; that shall be sufficient proof of an alcoholic beverage for the purposes of seizure and destruction.
 - 13 local government; 7 treatment/health; 2 other; 2 youth; 1 alcohol industry; 1 hospitality; 1 law enforcement.

The Police suggest that ‘reasonable cause’ might include: information as to content contained on the label of the container being consumed; admissions by person concerned and observations in respect of the substance.

- Only 18 submissions support creating an offence of drinking in a public place. The LGNZ submission indicates sector support for *investigating* this option, but note that such an offence may risk unintended consequences for CBD areas or for small councils.
 - 8 local government; 3 treatment/health; 2 other; 2 youth; 1 hospitality; 1 researcher; 1 retailer.
 - Some submissions specifically discuss why such an offence should not be created: it will have a significant impact on Police resources; there will be a need to deal with exemptions for special events or occasions, and it would impact on a large proportion of the community who do not drink in a harmful way but chose to drink at picnics or at public events or places.

6.2 Enforcement and penalty options

Submissions, across a broad range of submitter types, and particularly from local government, support increased penalties and sanctions for breaches of the law or licensing conditions.

The Law Commission’s preliminary view

The Law Commission recognises current issues with liquor licensing laws not being fully enforced. It recommends a more simplified enforcement process and favours:

- *Giving senior Police officers the power to immediately close on-licence premises.*
- *Increasing the penalties for serious breaches of the law.*
- *Allowing for infringement notices to be issued for technical or minor breaches.*
- *Providing a statutory process for the recognition of alcohol accords aimed at minimising alcohol-related harm.*

Feedback across 147 submissions

97 of the 147 submissions address questions relating to the enforcement of liquor licensing. Overall, there is support for greater penalties or sanctions for breaches of the law, whether minor or serious.

- 62 support increasing the penalties for breaches of licence conditions.
 - 30 local government; 12 treatment/health; 7 other; 5 youth; 3 researchers; 3 retailers; 2 alcohol industry.
- 53 support providing the Police with the power to close a bar immediately to prevent further breaches of the law or for serious public safety concerns based on behaviour in licensed premises or in the immediate vicinity.
 - The Police identify that there have been many occasions where there have been incidents of significant threats to public safety, however legislative provisions have been too restrictive to close down premises. The Police submission also proposes enabling Police to close a bar *for a specified time*. Some local government submissions discuss a requirement for Police to first try to wind down a bar before going to the extent of closing it.
 - 25 local government; 12 treatment/health; 5 other; 4 researchers; 3 youth; 2 law enforcement; 1 alcohol industry; 1 retailer.
 - Others call for a cautious approach and the need for a move in this regard to be carefully qualified given the exercise of this authority is at the sole initiation of the Police. There is some concern for potentially significant consequences for staff and licensees, and that this power is contrary to principles of a fair and transparent justice system.
- 47 support providing for infringement notices to be issued for any technical or minor breach of the law or licence condition.
 - 24 local government; 11 treatment/health; 3 other; 2 researchers; 2 youth; 1 alcohol industry; 1 hospitality; 1 individual; 1 law enforcement; 1 retailer.
 - The Police see this option as providing the opportunity for a quick sanction which is currently amiss and outline a number of minor offences which it considers could be appropriately dealt with in this way.
- 41 support making it an infringement offence to present fake evidence of age documents to a licensee.
 - 20 local government; 8 treatment/health; 3 alcohol industry; 3 other; 2 individuals; 2 law enforcement; 2 youth; 1 retailer.
 - Those who favour this option believe that an infringement offence will address the current problem of it being too cumbersome for Police to prosecute for this act. It will also provide a strong signal to young people that such actions will not be tolerated.
- 37 support providing Police and Licensing Inspectors with the ability to request an urgent hearing with the Licensing Authority if there are serious breaches or repeated breaches of the law to expedite the Authority's consideration of the matter.
 - 20 local government; 9 treatment/health; 3 youth; 2 other; 1 hospitality; 1 law enforcement; 1 retailer.
 - Some submissions express concerns at significant time delays currently experienced before enforcement applications can be heard by the LLA. They comment on the need for the LLA to be better resourced to allow for urgent hearings.

- 34 support empowering licensees to confiscate fake evidence of age documents, including driver licences, to hand over to the Police.
 - 17 local government; 7 treatment/health; 3 other; 2 law enforcement; 2 youth; 1 alcohol industry; 1 hospitality; 1 retailer.
- 18 support providing a statutory process for the development and recognition of alcohol accords to minimise alcohol-related harm.
 - 9 local government; 4 treatment/health; 2 other; 1 researcher; 1 retailer; 1 youth.

Support for simpler and more immediate enforcement action stems from present concerns relating to enforcement costs, inconsistencies in the determination of matters and the timeliness of hearings.

In terms of penalties for breach of the law or licence conditions, the Police comment that, in general, individual penalties are satisfactory. The concern of the Police and some other submitters relates to penalties to adequately address repeat offending and the need for greater consistency in terms of suspensions and cancellations of licences.

Other comments from local government arise in respect of increased sanctions and penalties and include suggestions to suspend licences pending a hearing; impose extra inspection charges following a breach, and/or adding or varying conditions of a licence if a breach occurs. It is also proposed that fines could go to the DLA for monitoring and enforcement purposes.⁶

A number of local government submissions identify the need for active enforcement and stress the need for sufficient resources to enforce serious breaches of the law and licences. Indeed one industry submitter comments that without a commitment to resourcing it is better to leave the law as it is.

6.3 Transport options

There is support across submitters for lowering the blood alcohol limit from 80 milligrams of alcohol per 100 millilitres of blood to 50 milligrams of alcohol per 100 millilitres for those over 20 years and lowering the blood alcohol limit to zero for those under 20 years.

The Law Commission's preliminary view

As noted in the Issues Paper, New Zealand's level of drink driving fatalities is higher than other countries. In this context, the Law Commission perceives there is a strong case for blood alcohol limits (BAC) to be reduced to achieve significant savings in social harms.

Feedback across 147 submissions

72 out of 147 submissions comment on transport options. There is support for the Law Commission's position of reducing BAC.

⁶ Some submissions specifically identify potential penalties that should be imposed as they relate to breaches of the law or licence conditions. See for example the submission from the Manukau City Council (page A20).

- 46 support lowering the blood alcohol limit from 80 milligrams of alcohol per 100 millilitres of blood to 50 milligrams of alcohol per 100 millilitres for those over 20 years, and lowering the blood alcohol limit to zero for those under 20 years.
 - Lowering the BAC to 50 mg of alcohol will bring New Zealand in line with other countries including Australia, France, Germany, Italy, Spain, and South Africa.
 - In contrast some in the alcohol industry and rural local government are not supportive of lowering BAC to 50mg as it will have an adverse effect on rural New Zealanders responsibly having one or two alcoholic drinks with a meal.
 - A zero BAC level for those under 20 will send a clear and consistent message that drinking and driving is not acceptable and may reduce accidents. However, the New Zealand Medical Association is concerned that those taking medications with small amounts of alcohol (e.g. cough medication) may be inadvertently penalised.
 - *17 local government; 16 treatment/ health; 6 researchers; 3 others; 2 youth; 1 individual; 1 law enforcement.*

There is a lower level of support for the following options:

- 28 support introducing a legal blood alcohol limit for a person in charge of a pleasure craft, for example, a yacht.
 - *14 local government; 9 treatment/ health; 2 other; 2 youth; 1 alcohol industry.*
- 24 support introducing alcohol ignition locking devices (which require the driver to blow into them and “pass” before the vehicle will start) for all or some convicted drink drivers.
 - *9 treatment/ health; 8 local government; 2 other; 2 alcohol industry; 1 hospitality; 1 researcher; 1 youth.*
 - One submitter notes that this initiative has been effective at reducing recidivism in the United States.
 - In contrast, two local government submitters believe this initiative will be ineffective and expensive as recidivist drink drivers have access to multiple vehicles, frequently not their own. Alternative approaches are suggested of banning convicted drink drivers from licensed premises, name and shame policy, access to treatment and compulsory third party insurance.
 - One treatment/ health submitter suggests this initiative is accompanied by an appropriate treatment programme to address underlying issues.
- 15 support banning the possession of alcoholic beverages in an open container in a moving or stationary motor vehicle.
 - *7 treatment/ health; 4 local government, 2 youth; 1 other; 1 researcher.*
 - New Zealand Police are not supportive of this option as it is unclear what road safety benefits will arise. It is noted that open container legislation is prevalent in the United States as most jurisdictions do not allow random alcohol testing. As this is not the case in New Zealand, it is unlikely extending the scope of the current offence will enhance enforcement of drink driving, and is not supported by leading road safety experts.

6.4 Treatment/ health options

In the main submitters are supportive of the treatment options proposed as this will increase access to effective treatment initiatives and workforce.

The Law Commission's preliminary view

The Law Commission raises concern at the lack of policies, facilities and programmes for the assessment and treatment/ health of people with alcohol problems and states the need for increased funding from across a range of sectors.

Feedback across 147 submissions

86 out of 147 submitters comment on treatment/ health options. Issues with access to appropriate, effective and timely treatment for people abusing alcohol are noted across submitters, especially amongst treatment/ health and research submitters. Treatment/ health submitters highlight that exposure to treatment of those people who are alcohol dependent or heavy drinkers is associated with a significant reduction in alcohol use. Consequently, a common theme is the need for a wide range of services that are:

- Responsive to the unique needs of individuals including cultural and spiritual.
- Inclusive of families/ whānau and community.
- Delivered across the spectrum of care (primary health to specialist intensive alcohol and drug services).
- Accessible irrespective of location.
- Integrated across health, social services, education and justice sectors.

The need for brief interventions and increased treatment opportunities for heavy drinkers is specifically mentioned. AlcoholWatch propose introducing a comprehensive national programme of early and brief intervention so heavy drinkers can be motivated to moderate their drinking. Similarly, ALAC suggests the development of a comprehensive plan for alcohol treatment that will be based on high priority and best practice including brief and early interventions and treatment in primary health settings.

The alcohol industry also highlights their active support of initiatives that promote a responsible drinking culture through targeted education and culture-change methods. In contrast, researchers are critical of focusing solely on educational campaigns as on their own these types of initiatives are less effective.

More explicitly, across the proposed treatment policy options:

- 23 support providing centres for temporary supervision for individuals who are not charged with an offence but pose a significant concern to their own or others' safety or health.
 - New Zealand Police comment they are acting as a default health agency managing intoxicated people who have not committed any offences at huge cost.
 - 9 treatment/ health; 8 local government; 2 others; 2 youth; 1 law enforcement; 1 researcher.

- 33 support requiring the need for alcohol and other drug assessment and treatment/ health to be taken into account during sentencing in cases where alcohol and other drugs may have contributed to the offending.

– 12 local government; 11 treatment/ health; 3 alcohol industry; 3 others; 1 hospitality; 1 researcher; 2 youth.
- 27 support developing the workforce to ensure assessment, referral and brief interventions can be delivered by appropriate professionals across sectors (e.g. primary care, mental health, emergency departments, justice, corrections, education, Work and Income, ACC).

– 12 treatment/ health; 8 local government; 3 youth; 2 others; 1 alcohol industry; 1 researcher.
- 31 support investigating the range of alcohol-specific treatment/ health interventions provided, with a view to determining gap areas (e.g. alcohol detoxification and nationally consistent drink driving group interventions) with the potential to increase funding via the alcohol levy managed through ALAC.

– 13 local government; 11 treatment/ health; 2 others; 2 youth; 1 hospitality; 1 individual; 1 researcher.
- 25 support funding primary care providers to deliver screening, brief interventions and referral to specialist treatment/ health / community organisations with proven effective care.

– 13 treatment/ health; 5 local government; 3 researcher; 2 youth; 1 alcohol industry; 1 other.
- 21 support investigating the feasibility of using electronic screening and brief interventions in a range of settings.

– 10 treatment/ health; 6 local government; 3 researchers; 2 youth.
- 24 support funding more treatment/ health (generic).

– 10 treatment/ health; 6 local government; 3 researchers; 2 individuals; 2 others; 1 youth.
- 19 support increasing/ tailoring services to meet specific needs especially cultural and spiritual needs for Māori and other high risk groups.

– 12 treatment/ health; 3 local government; 2 researchers; 1 alcohol industry; 1 other.

APPENDICES

1. Description of submitter profiles

Advertising (and media) incorporates submissions from associations representing communications (print, television and broadcast), advertising and marketing associations.

Alcohol industry refers to submissions received from liquor companies, producers and marketers.

Hospitality incorporates hospitality businesses and the association representing hospitality businesses.

Individuals are submissions received from individuals who have indicated that they are submitting as an individual rather than on behalf of a group or organisation. Submissions in this group are diverse and include submissions from bar staff, parents of young people, family members of people adversely affected by alcohol and professionals across disciplines (i.e. education, health, spiritual and religious).

Law enforcement, including the Police.

Local Government represents submissions received from local authorities across the country, submissions representing more than one local authority and a submission from Local Government New Zealand (LGNZ) representing the views of the local government sector.

Other organisations submissions are from a diversity of organisations and include organisations representing sectors such as: business; economics; religion; political; family and children; liquor licensing; emergency services; resident's associations.

Researchers are individual researchers or academics expressing their professional views (including from the health sector).

Retailers represent large and small retailers who sell alcohol-related products to varying degrees.

Treatment industry/health providers, includes public health providers and health organisations.

Youth are submissions received from organisations representing the interests of young people.

2. Alphabetical listing of submissions comprising representative sample of stakeholders

<ul style="list-style-type: none"> ▪ Advertising Standards Authority ▪ ALAC ▪ Alan Vail ▪ Alcohol Healthwatch ▪ Alcohol Healthwatch (Todd Bell, Kaiwhakatairanga Hauroa)) ▪ Ashburton District Council ▪ Association of NZ Advertisers Inc. ▪ Auckland City Council ▪ Auckland Regional Public Health ▪ Beam Global (NZ) Ltd ▪ Brainwave Trust Aotearoa ▪ Brewers Association ▪ Brewers Guild of NZ ▪ Business Roundtable ▪ Cancer Society ▪ Dr Stoner (Canterbury DHB) ▪ Central Otago District Council ▪ Child & Youth Mortality Review Committee ▪ Children's Commissioner ▪ Christchurch City Council ▪ City College Hall of Residence ▪ Clinical Trials Research Unit (Auckland University) ▪ Clubs New Zealand ▪ Clutha District Council ▪ Communication Agencies Association ▪ David Richardson (Otago University) ▪ DB Breweries ▪ Diageo ▪ Distilled Spirits Association ▪ Doctors and Nurses of New Zealand (300 plus signatories) ▪ Don Stewart ▪ Professor Doug Sellman ▪ Dr Jenni Connor (University of Otago) ▪ Dr Paul Quigley ▪ Dunedin DLA ▪ Faculty of Child & Adolescent Psychiatry ▪ Families Commission ▪ Family First ▪ Foodstuffs ▪ Franklin District Council ▪ Gisborne District Council ▪ Gore District Council ▪ Greg Snelling ▪ Group Against Liquor Advertising (GALA) 	<ul style="list-style-type: none"> ▪ Hauraki District Council ▪ Health Sponsorship Council ▪ Healthy Christchurch ▪ Hospitality Association of NZ (HANZ) ▪ Independent Liquor ▪ Injury Prevention Research Unit ▪ Jill Greathead ▪ Jim Anderton (Progressive Party) ▪ John Caygill ▪ John Henry Still - Cock & Bull Botany Downs ▪ Dr Judith Aitken ▪ Kapiti Coast District Council ▪ Lesley MacClure ▪ Lianne Dalziel (Labour Party) ▪ Lion Nathan ▪ Liquor Licensing Authority ▪ Local Government NZ ▪ Malcolm Creagh ▪ Manukau City Council ▪ Marlborough Youth Council ▪ Massey University ▪ Masterton District Council ▪ Matt Burgess (Canterbury University Economics Department) ▪ Mental Health Foundation ▪ National Advisory Group on Youth Drinking ▪ National Committee for Addiction Treatment ▪ Nelson City Council ▪ Nelson Marlborough DHB ▪ Newspaper Publishers' Association ▪ North Shore City Council ▪ Northland DHB ▪ NZ Association of Dairies, Groceries & Small Businesses ▪ NZ College of Clinical Psychologists ▪ NZ College of Mental Health Nurses ▪ NZ College of Public Health Medicine ▪ NZ Defence Force ▪ NZ Drug Foundation ▪ NZ Fire Service Commission & United FBA ▪ NZ Hospitality Training Ltd ▪ NZ Institute of Liquor Licensing Inspectors Inc. ▪ NZ Medical Association ▪ NZ Police ▪ NZ Police Association ▪ NZ Retailers Association ▪ NZ Television Broadcaster's Council ▪ NZ Wine ▪ Otago DHB ▪ Palmerston North City Council ▪ Papakura District Council
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<ul style="list-style-type: none"> ▪ Hamilton City Council ▪ Hastings District & Napier City Councils ▪ Plunket ▪ Porirua City Council ▪ Presbyterian Support Upper South Island ▪ Progressive Enterprises Ltd ▪ Public Health Association ▪ Queenstown Lakes District Council ▪ Radio Broadcasters Association ▪ Rangitikei District Council ▪ Reduce Harm Committee – VUW ▪ Regional Public Health (Wellington) ▪ Richard Drew ▪ Rodney District Council ▪ Rotorua District Council ▪ Royal Australasian College of Physicians ▪ Royal Australian & NZ College of Psychiatrists ▪ Russell School Board of Trustees ▪ Salvation Army ▪ Sapphire Manihera ▪ Selwyn District Council ▪ Sky TV ▪ Society of Medical Officers of Health ▪ South Canterbury DHB ▪ South Taranaki DLA ▪ South Wairarapa District Council ▪ Southland District Council 	<ul style="list-style-type: none"> ▪ Pegasus Health ▪ Super Liquor ▪ Suresh Dayal ▪ Tauranga City & WBOP District Councils ▪ Tauranga City Council ▪ Terri Simpkins ▪ The Collaborative Trust ▪ The Mill ▪ Timaru District Council ▪ Tourism Industry Association of NZ ▪ Trademe ▪ Trevor Currie ▪ Upper Hutt City Council ▪ Victim Support ▪ Vision Network - NZ Christian Network ▪ Viv Whimster ▪ Waipa DLA ▪ Wairoa District Council ▪ Waitaki District Council ▪ Waitaki Safer Community Trust Inc. ▪ WBOP District Council ▪ Wellington City Council ▪ Wellington Inner City Residents & Businesses Association ▪ Westland District Council ▪ Whakatane District Council ▪ Whangarei DLA ▪ Young ACT/Nats
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Bibliography

Law Commission (2009). *Alcohol In Our Lives. An Issues Paper on the Reform of New Zealand's Liquor Laws* (NZLC IP15, Wellington, July 2009).

Law Commission (2009). *Alcohol in our Lives. A summary of the Law Commission's Issues Paper on the Reform of New Zealand's Liquor Laws* (NZLC Summary IP15, Wellington, July 2009).