DSICA

Distilled Spirits Industry Council of Australia Inc.

Pre-Budget Submission 2013-14

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Who is DSICA?

The Distilled Spirits Industry Council of Australia Inc (DSICA) is the peak body representing the interests of distilled spirit manufacturers and importers in Australia.

DSICA was formed in 1982, and the current member companies are:

- Bacardi Lion Pty Ltd;
- Beam Global Australia Pty Ltd;
- Brown-Forman Australia;
- Bundaberg Distilling Company Pty Ltd;
- Diageo Australia Limited;
- Mast-Jägermeister SE;
- Moët-Hennessy Australia Pty Ltd;
- Rémy Cointreau International Pte Ltd;
- Suntory (Australia) Pty Ltd; and
- William Grant & Sons International Ltd.

DSICA's goals are:

- to create an informed political and social environment that recognises the benefits of moderate alcohol intake and to provide opportunities for balanced community discussion on alcohol issues; and
- to ensure public alcohol policies are soundly and objectively formed, that they include alcohol industry input, that they are based on the latest national and international scientific research and that they do not unfairly disadvantage the spirits sector.

DSICA's members are committed to:

- responsible marketing and promotion of distilled spirits;
- supporting social programs aimed at reducing the harm associated with the excessive or inappropriate consumption of alcohol;
- supporting the current co-regulatory regime for alcohol advertising; and
- making a significant contribution to Australian industry through primary production, manufacturing, distribution and sales activities.

Preface

Once again DSICA is grateful for the opportunity to present its annual Pre-Budget Submission for consideration by the Treasurer, Treasury and other interested parties.

The issue of alcohol taxation is long overdue for wide-ranging reform. Continued inactivity entrenches distorted consumption patterns, encourages unfair competition between the various beverage sectors, and places unnecessary administrative burdens on industry and Government alike, all of which is ultimately borne by the consumer.

We have reverted to including a section on the social aspects of alcohol policy because of the intertwined nature of the economic aspects and consumer behaviour as was demonstrated by the recent inquiry into minimum floor pricing.

A stated impediment to the introduction of a volumetric wine tax, which is supported by a growing and diverse group of industry and health advocates, has been the 'wine glut'. Based on an analysis of demand versus production measurements, we contend that the Australian wine industry is moving to an 'in-balance' position between wine supply and demand.

We again propose a phasing in of alcohol tax reform to allow the wine industry, in particular, time to adjust to a reformed regime.

We urge the Government to revisit the Henry Review as it deals with alcohol and then act to reform an inefficient and inequitable tax regime.

The exaggerated claims of the cost of alcohol to society are examined, as we continue to operate in an environment where anti-alcohol activists make unfounded allegations about the industry and alcohol, while ignoring the fact that the vast majority of Australians do consume alcohol and in a responsible manner.

Gordon J. Broderick
Executive Director

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Executive summary

1 Summary of recommendations

Alcohol taxation reform priorities

Recommendation 1: Taxation of traditional cider products at the Ready-to-Drink product excise duty rate

That the taxation of traditional cider products be amended from the current Wine Equalisation Tax arrangement to a volumetric tax at the same rate as Ready-to-Drink products.

Estimated revenue impact: $403 million in additional revenue over the forward estimates

Recommendation 2: Tax equivalence for low- and mid-strength Ready-to-Drink products

That the Government introduce taxation equivalence between low- and mid-strength packaged Ready-to-Drink products and packaged beer of similar alcohol content by applying the same volumetric rates as well as applying the 1.15 per cent alcohol by volume excise-free threshold.

Estimated revenue impact: $20 million cost over the forward estimates

Recommendation 3: Reform of the concessional brandy excise duty rate

That the Government commit to increasing the brandy excise duty rate to that applying to other alcohol beverages over 10° alcohol by volume, effectively creating a single excise duty rate for all full-strength bottled spirits products.

Estimated revenue impact: $20 million additional revenue over the forward estimates

Recommendation 4: Government acknowledgement of the end of the 'wine glut'

That the Government confirm that the significant majority of available evidence indicates that the 'wine glut' has ended, and therefore does not inhibit consideration, development and implementation of alcohol taxation reform options.

Recommendation 5: Reform of the Wine Equalisation Tax to a volumetric taxation regime

That the Government pursue wine taxation reform using the five-step process devised by DSICA as a transition step to achieving the long-term goal of a fully volumetric taxation regime for all alcohol beverages.

Recommendation 6: Taxation of Ready-to-Drink products at the excise duty rate applying to full-strength packaged beer

That the Government amend the current Ready-to-Drink product excise duty rate to that applying to full-strength packaged beer products.

Estimated revenue impact: Unquantified

Recommendation 7: Freezing of statutory indexation of excise duty rates to facilitate transition to a wholly volumetric alcohol taxation regime

That the Government commit to freeze automatic (statutory) indexation of the spirits and Ready-to-Drink product excise duty rates as a means of facilitating the transition to a single volumetric rate for all alcohol products, as recommended by the Henry Review.

International trade liberalisation

Recommendation 8: Removal of five per cent ad valorem customs duty

That the Government immediately remove the five per cent nuisance customs duty on imported spirits and Ready-to-Drink products in order to remove structural complexity from the current alcohol taxation regime.

Estimated revenue impact: $88 million cost over the forward estimates

Recommendation 9: Elimination of tariffs applied to distilled spirit products and their inputs

That the Australian Government seek elimination (or, if not possible, substantial reduction) of import tariffs on distilled spirits products (HS 2208) and their inputs in each Free Trade Agreement under negotiation.

Recommendation 10: Inclusion of lot identification code protection provisions and penalties in Free Trade Agreement negotiations

That the Australian Government propose the inclusion of provisions in Technical Barriers to Trade chapters to current and future Free Trade Agreements under negotiation which:

- prohibit the sale of imported distilled spirits and wine products with erased or tampered lot identification codes; and
- penalise the sale of distilled spirits and wine products with erased or tampered lot identification codes, such that the penalties may be imposed at any point of sale through the supply chain.

Recommendation 11: Inclusion of transhipment provisions in future Free Trade Agreement Rules of Origin criteria

That the Australian Government seek to include provisions in future Free Trade Agreement Rules of Origin criteria which enable importers and exporters to undertake specified transhipment activities in respect of traded goods without the goods in question losing their preferential treatment status.

Recommendation 12: Inclusion of regional accumulation provision in multilateral Free Trade Agreement Rules of Origin criteria

That the Australian Government seek to include provisions in Rules of Origin criteria that allow for regional accumulation, enabling products that are produced wholly from qualifying inputs sourced from a number of negotiating parties to multilateral Free Trade Agreements to qualify for the preferential treatment accorded by any of the other negotiating parties.

Alcohol taxation administration priorities

Recommendation 13: Introduction of a new Administration Act applying to excise equivalent goods and excisable goods

That the Government announce the introduction of a new Act which covers all administrative matters relating to excisable goods and excise equivalent goods in the 2013-14 Federal Budget.

In developing and implementing the new Administration Act, that the Government facilitate arrangements whereby:

- the Australian Taxation Office assumes sole responsibility for all revenue collection matters, licensing and warehouse matters, movement permissions, returns and settlement permissions, disposal supervisions and compliance and/or audit functions for both excise equivalent goods and excisable goods;
- the Australian Customs and Border Protection Service continues to assume sole responsibility for all border protection issues; and
- portfolio responsibility for the new Administration Act rests with the Treasurer, with the Australian Taxation Office providing input and guidance on the legislation as required.

Recommendation 14: Reform of the ad valorem customs duty applying to imported distilled spirits and Ready-to-Drink products

If outright removal of the five per cent ad valorem customs duty applying to imported spirits and Ready-to-Drink products is not possible, that the Government pursue reforms which enable payment of the ad valorem customs duty and excise equivalent customs duty applying to excise equivalent goods to be split, extinguishing the excise equivalent customs duty payable upon payment of the ad valorem customs duty, and creating an excise duty liability.

Estimated revenue impact: Unquantified

Recommendation 15: Expand operation of the monthly Periodic Settlement Permission arrangements to include larger businesses

That the Government expand operation of the current monthly Periodic Settlement Permission arrangements to include all taxpayers, rather than small businesses only.

Estimated revenue impact: Unquantified

Recommendation 16: Adoption of a streamlined approach to customs and excise duty refund permissions

That the Government allow refunds of excise duty and customs duty for alcohol beverages which are returned and destroyed due to age of stock.

Estimated revenue impact: Unquantified

Health and social policy

Recommendation 17: Use of cost-of-illness and cost-of-harm studies

That the Government and its agencies refrain from referring to, using or relying on the cost-of-harm and cost-of-illness studies undertaken by Collins and Lapsley and Laslett et. al. in informing public policy debate.

Recommendation 18: Introduce a volumetric wine taxation regime rather than a minimum floor price

That the Government heed the Australian National Preventative Health Agency's draft recommendation not to introduce a minimum floor price on alcohol products, and instead pursue reform of the ad valorem Wine Equalisation Tax to a volumetric wine taxation regime. This would create an effective minimum floor price for all alcohol beverages, therefore removing the need to introduce a statutory minimum floor price.

Recommendation 19: Alcohol industry input to government-led alcohol strategies

That the Australian, State and Territory Governments as well as all stakeholders with a shared interest in preventing alcohol consumption amongst those under 18 and reducing the misuse of alcohol, consider the DEMOS findings, and redouble efforts in cooperation with DrinkWise Australia to reinforce the pivotal role of parents and care givers as role models and educators.

2 The Australian alcohol market and DSICA revenue estimates for 2013-14

In this chapter, DSICA provides a brief overview of the Australian alcohol taxation system, the latest data on the composition of Australia's alcohol market and estimates of government revenue from alcohol products in 2013-14. A full technical explanation of each of these considerations is set out in Appendix A. Readers who are unfamiliar with Australia's alcohol taxation regime are recommended to read Appendix A before proceeding.

2.1 Alcohol taxation in Australia

Revenue authorities around the world apply two main methods in taxing alcohol products:

- tax on the basis of the volume of alcohol in the beverage (a 'volumetric', or specific rate method); and
- tax on the basis of the value of the product (an 'ad valorem' method).

Australia uses a combination of both methods, depending on the beverage type as follows:

- beer, spirits, Ready-to-Drink alcohol products (RTDs) and flavoured cider are subject to excise duty on a volumetric litre of pure alcohol (LPA) basis; and
- wine, wine products and traditional cider are subject to the ad valorem Wine Equalisation Tax (WET) at 29 per cent of the product's wholesale sales price.

2.2 The Australian alcohol market in 2011-12 and revenue estimates for 2013-14

DSICA estimates that of the alcohol market in 2011-12 (when measured in LPAs):

- beer comprised 40.2 per cent;
- spirits overall (including RTDs and flavoured cider) comprised 20.5 per cent;
- wine (and grape wine products) comprised 37.9 per cent; and
- traditional cider comprised 1.5 per cent of the market, but was the fastest growing market segment.

DSICA estimates that the Federal Government will collect approximately $7.6 billion in taxation revenue from the production and consumption of alcohol beverages in the 2013-14 financial year. This revenue will comprise:

- $1.9 billion in customs duty;
- $3.0 billion in excise duty; and
- $774 million in WET.

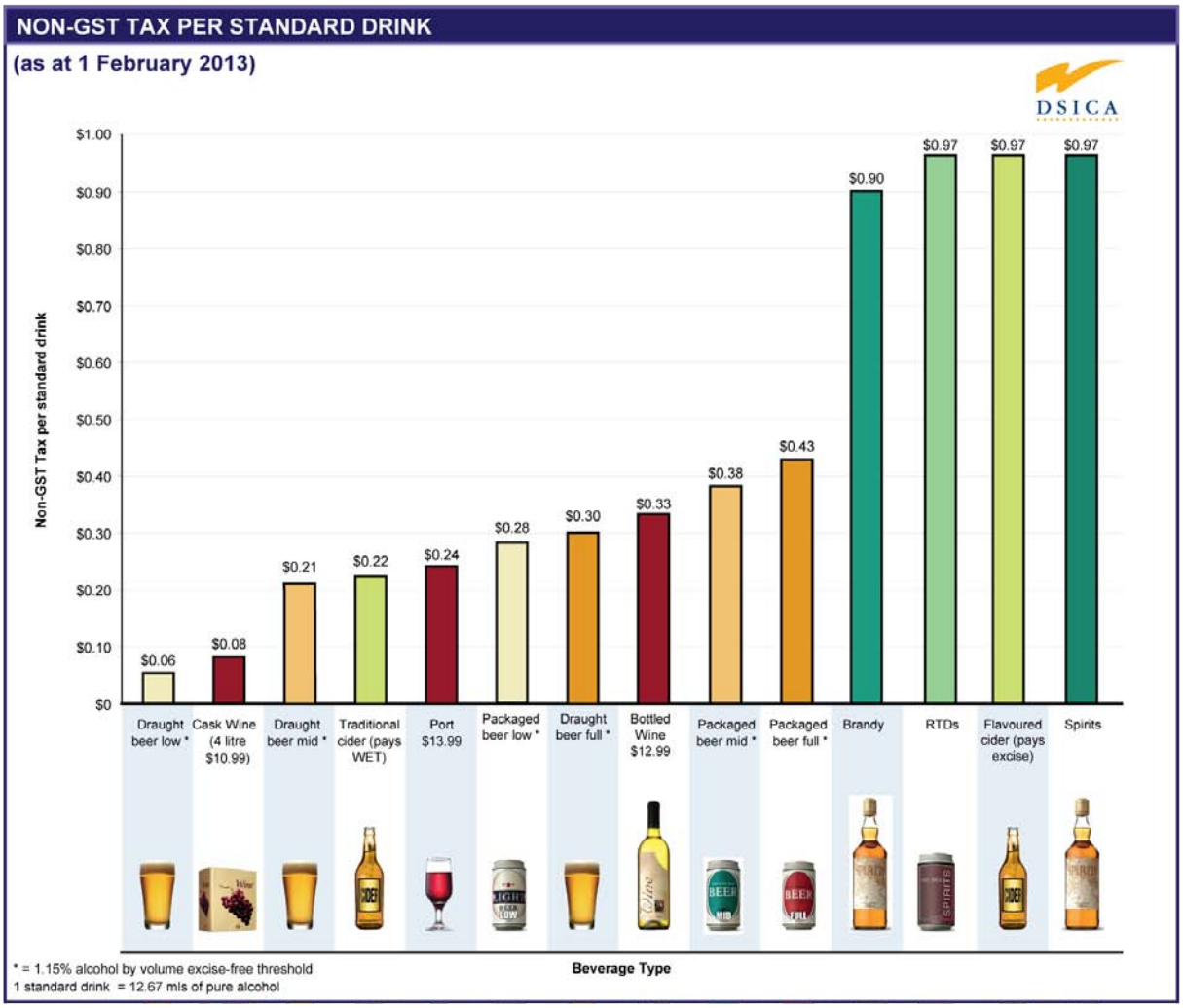
Resulting in $5.7 billion in non-Goods and Services Tax (GST) revenue, and $1.9 billion in GST revenue (see Appendix A for further details).

2.3 Non-GST (alcohol) taxes per standard drink

Using the concept of a standard drink allows for a uniform comparison of the incidence of taxation on products of differing alcohol strength and retail price, shown in Figure 2-1. The graphic highlights some of the issues and complexities inherent in the current tax system.

DSICA believes that consumers have an increasing appreciation of the need for taxation equity when tax incidence can be compared on a 'per standard drink' basis.

Figure 2-1: Non-GST alcohol tax per standard drink as at 1 February 2013



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Source: DSICA Pre-Budget Submission 2013-14

The inconsistency in the tax treatment of different beverages becomes particularly clear when one considers that:

- cask wine (typically with an alcohol by volume [abv] of 11 to 13 per cent) pays only 8 cents per standard drink;
- full-strength RTDs (which are less than half the abv of most cask wines) pay 97 cents per standard drink (over 12 times that paid by cask wine);
- full-strength packaged beer (at about the same abv as full-strength RTDs) only pays 43 cents per standard drink, less than half that paid by RTDs of equivalent alcohol content; and
- 'traditional cider' only pays 22 cents per standard drink,[1] less than a quarter of that paid by 'flavoured cider'.[2]

[1] A 'traditional cider' product is a beverage that is the product of the complete or partial fermentation of the juice or must of apples. See *A New Tax System (Wine Equalisation Tax) Act 1999* (Cth) s 31-5.

2.4 The ideal alcohol taxation system

The *Australia's Future Tax System* Review (the Henry Review) outlined a recommendation pertaining to the design of an ideal alcohol taxation system as follows:

Recommendation 71:

All alcoholic beverages should be taxed on a volumetric basis, which, over time, should converge to a single rate, with a low-alcohol threshold introduced for all products. The rate of alcohol tax should be based on evidence of the net marginal spillover cost of alcohol.

Taken from Ken Henry et. al., Australia's future tax system: Report to the Treasurer (Part Two – Detailed Analysis) (Australian Government, 2009) 442.

DSICA strongly supports this recommendation. DSICA also notes that the use of a single volumetric rate for all alcohol products should be supported, as it:

- does not distort production and consumption decisions;
- facilitates desired health and social policy objectives as it enables consumers to make responsible consumption decisions based on the alcohol content of the product (this is in contrast to the current tax regime in which some higher-strength products may enjoy a cheaper retail price due to favourable taxation structures [e.g. cask wine]); and
- better addresses social harm arising from risky and high-risk alcohol consumption through closer targeting of social costs (as facilitated through the introduction of a single volumetric rate based on evidence of the net marginal spill over cost of alcohol).

2.5 Reform of the Australian alcohol taxation system

DSICA acknowledges that reform to a single volumetric rate is a long-term goal. However, in the interim there are a number of incremental reforms which can be undertaken to assist in reforming the anomalies and distortions prevalent in the existing taxation regime. As such, the *Alcohol taxation reform priorities* section of DSICA's Pre-Budget Submission is structured in a manner which discusses both short-term budget priorities and longer-term opportunities as follows:

- budget priorities:
  - reform of traditional cider taxation;
  - tax equivalence for low- and mid-strength RTDs;
  - removal of the concessional excise duty rate applying to brandy products;
- long-term reform opportunities:
  - reform of the WET (including removal of the Wine Producer Rebate);
  - reform of RTD product taxation; and
  - introduction of a single volumetric excise duty rate for all alcohol beverages.

DSICA acknowledges that in this tight fiscal environment, all reform proposals must be fully-funded.[3] To this end, the revenue gains realised through taxation of traditional cider products at the RTD excise duty rate may be used to offset proposed expenditure.

[2] A 'flavoured cider' product is a traditional cider product that has had added to it either ethyl alcohol or any liquor or substance (other than water or the juice or must of apples or pears) that gives colour or flavour. See *WETR 2009/1* [28].
[3] The Hon Wayne Swan MP, '2013-14 Pre-Budget Submissions' (Media Release, 16 December 2012).

2.6 International trade liberalisation opportunities

In addition to these alcohol taxation reforms, DSICA acknowledges the importance of international trade liberalisation, including removal of tariff and non-tariff barriers to trade such as:

- removal of the five per cent nuisance customs duty on imported spirits and RTDs;
- inclusion of alcohol products in Free Trade Agreement (FTA) negotiations;
- improved lot identification code protections; and
- improved Rules of Origin criteria and requirements in FTA negotiations.

Each of these issues is discussed in turn.

2.7 Alcohol taxation administration reform

Alcohol taxation and trade-related reforms must be underpinned by an efficient and streamlined alcohol taxation administration regime. DSICA contends that significant reforms may be undertaken in this area, particularly in relation to:

- introduction of a new Administration Act;
- administration of the five per cent ad valorem customs duty;
- monthly Periodic Settlement Permissions (PSPs) for larger businesses; and
- streamlining customs and excise duty refund permissions.

Each of these issues is discussed in turn.

2.8 Health and social policy priorities

Finally, DSICA remains committed to supporting strategies that can be shown to reduce the uptake of alcohol use by underage Australians, and reduce the levels of harmful drinking amongst adult Australians. The promotion of responsible consumption decisions and creation of an informed political and social environment that recognises the benefits of moderate alcohol intake and provides opportunities for balanced community discussion on alcohol issues remains a key priority for DSICA. In light of this, DSICA's Pre-Budget Submission discusses:

- alcohol consumption in Australia;
- the cost of alcohol-related harm(s);
- minimum floor pricing; and
- population-wide versus targeted policies to address alcohol misuse.

Alcohol taxation reform priorities

Alcohol taxation reform priorities

DSICA recommends a revenue-positive package of alcohol taxation reforms for inclusion in the 2013-14 Federal Budget, along with further long-term reform initiatives to achieve DSICA's vision of a single volumetric excise duty rate for all alcohol beverages.

As noted in Chapter 2, Australia's alcohol taxation regime is riddled with anomalies which inhibit achievement of desired health, social policy and revenue objectives. DSICA recommends two key alcohol taxation reform priorities for inclusion in the 2013-14 Federal Budget to help remove these anomalies as follows:

- reform of cider taxation from the ad valorem WET to a volumetric excise duty rate equivalent to that applying to RTDs; and
- tax equivalence for low- and mid-strength RTDs with that of packaged beer products.

In addition to these short-term reform objectives, DSICA has developed two consecutive longer-term reform proposals, being:

- implementation of a volumetric wine taxation regime (within the existing WET framework); and
- later transition to a single volumetric excise duty rate for all alcohol beverages.

Each of these reforms is discussed in turn.

3 Reform of traditional cider taxation

This chapter demonstrates how the tax paid on traditional cider is far lower than that paid by other alcohol beverages of similar alcohol content, and how reform of traditional cider taxation from the ad valorem WET to a volumetric excise duty rate equivalent to that applied to RTDs and flavoured cider would result in significant revenue gains to Government.

3.1 A brief history of cider taxation in Australia

Since the introduction of the GST in July 2000, traditional cider (and perry) have been subject to a 29 per cent ad valorem tax (i.e. the WET).

The original design of the Howard Government's *A New Tax System* policy intended cider and perry to be subject to the same taxation treatment as RTDs (i.e. volumetric excise duty).[4] However, there were significant changes between the original *A New Tax System* policy design and the final tax structure adopted; the most significant of which was the exclusion of basic food products from the GST. Other changes included the introduction of concessional tax rates for draught beer, and the decision to tax traditional cider on the same basis as wine products (under the ad valorem WET) rather than under the excise system which applies to beer, RTDs and flavoured ciders.

This tax treatment gives traditional cider products a significant price advantage over other alcohol beverages with similar alcohol content which compete in the same alcohol market segment, namely full-strength RTDs, flavoured ciders and beer. In particular, the April 2008 excise duty increase on RTDs greatly increased the disparity between the tax paid by RTD and traditional cider beverages.

3.2 The current taxation disparity

Taxation disparities exist both within the cider market and between traditional cider products and other alcohol beverages, particularly RTDs and full-strength beer.

Current taxation disparity within the cider market

A taxation disparity currently exists within the cider market itself as a result of the definitions contained within the WET taxation regime.

For taxation analysis purposes, the cider market is comprised of 'traditional cider' and 'flavoured cider'. A 'traditional cider' product (for the purposes of this discussion) is a beverage that is the product of the complete or partial fermentation of the juice or must of apples.[5] On the other hand, a 'flavoured cider' product is a traditional cider product that has had added to it either ethyl alcohol or any liquor or substance (other than water or the juice or must of apples or pears) that gives colour or flavour.[6] In particular, flavoured cider products tend to have had lemon, blackcurrant, cola or other (fruit or otherwise) flavourings added.[7] An overview of key traditional cider products is available in Appendix B.

Although traditional cider and flavoured cider products are largely the same from a production and consumer perspective, at present, traditional cider pays a much lower rate of tax compared with flavoured cider:

- traditional cider is taxed under the WET and pays approximately 22 cents in tax per standard drink; while

[4] The Hon Peter Costello, MP, *Tax reform not a new tax, a new tax system*: *The Howard Government's Plan for a New Tax System* (Australian Government, 1998) 87.
[5] *A New Tax System (Wine Equalisation Tax) Act 1999* (Cth) s 31-5.
[6] Note that all references to 'cider' throughout this Pre-Budget Submission relate to traditional cider products unless specified otherwise.
[7] WETR 2009/1 [28].

- flavoured cider is taxed as an 'other excisable good' at the equivalent volumetric rate as RTDs and is subject to bi-annual Consumer Price Index (CPI)-based indexation (and pays approximately 97 cents in tax per standard drink).

Cider manufacturers are blurring the lines between traditional and flavoured cider products with ongoing product development, innovation and marketing. Traditional cider products are increasingly being marketed alongside RTDs as competitors in both advertising material and the placement of cider products in retail outlets.

Figure 3-1 is an example of an advertising pamphlet from a large liquor retail outlet showing the placement of traditional cider marketing alongside RTDs.

Figure 3-1: Sample advertising of traditional cider products

Following concerns of tax evasion by flavoured cider producers (some of whom appear to be paying WET, rather than the volumetric excise duty rate applying to other excisable goods), the Australian Taxation Office (ATO) has recently developed a *Cider – Fruit or Vegetable Wine* fact sheet to aid in clarifying the distinction between traditional and flavoured cider products for taxation purposes. DSICA is strongly supportive of this measure, along with additional compliance activities being undertaken by the ATO in relation to this matter.

There is no longer any rationale to continue the market-distorting anomaly under which traditional cider is taxed as wine, but flavoured ciders are taxed as RTDs. This fact has arguably been recognised

by the Tasmanian Government which withdrew a subsidy that has been available to Tasmanian cider manufacturers for many years.[8]

Taxation disparity between traditional cider products and other alcohol beverages

The use of the ad valorem WET as the taxation regime for traditional cider products creates significant disparities between the effective taxation rates applied to traditional cider and its main competitors – flavoured ciders, RTDs and beer.

As traditional cider products are taxed under the WET, the taxation rate has the benefit of not being subject to indexation. Conversely, excisable goods (flavoured ciders, RTDs and beer) are subject to bi-annual CPI-based indexation increases. This means that the gap between the effective taxation rates for flavoured ciders and RTDs (when compared with traditional cider) widens whenever cider production costs are not increasing at the rate of increase in general consumer prices.

Furthermore, smaller boutique cider producers may also effectively pay no WET at all as they may be entitled to the Wine Producer Rebate. Any traditional cider producer with less than $1.7 million in total annual sales effectively pays no WET, creating a further discriminatory advantage that is not available to small flavoured cider producers or RTD producers.

The original *A New Tax System* policy design intended that traditional cider would be subject to the same taxation treatment as RTDs. However, the final tax structure adopted facilitated the taxation of traditional cider products on the same basis as wine.

3.3 Inclusion in the *Tax Expenditures Statement*

DSICA recommends that the *Tax Expenditures Statement* include an expenditure description and analysis outlining the revenue foregone since 1July 2000 as a result of the taxation of traditional cider under the WET. This would assist the Government in identifying not only the revenue foregone to date as a result of this decision, but also the revenue gains to be had as a result of this proposed change.

In light of the taxation disparities that currently exist, both within the cider market, and between cider products and other alcohol beverages, DSICA recommends that all cider products (both traditional and flavoured) should be taxed at the equivalent volumetric excise duty rate as RTDs.

3.4 The Australian cider market

The Australian traditional cider market is also growing rapidly. Drinks Central (formerly the Liquor Merchants Association of Australia) reports that the total Australian traditional cider market grew by 28 per cent (in terms of volume) between the 2010-11 and 2011-12 financial years.

In 2011-12 approximately 6.1 million 9-litre cases of traditional cider were consumed (i.e. 2.8 million LPAs). Based on these figures, the amount of WET collected from these traditional cider sales was approximately $38 million in 2011-12. Further detail is available in Appendix B which contains a comprehensive breakdown of the Australian cider market.

The latest DSICA analysis estimates that in 2013-14:

- the quantity of traditional cider consumed in Australia will be 3.7 million LPAs; and
- the WET revenue collected from sales of this quantity of traditional cider will be $55 million.

3.5 Traditional cider revenue gains under a volumetric tax

If traditional cider products are taxed at the equivalent volumetric excise duty rate as RTDs, additional revenue of $403 million over the forward estimates could be gained.

[8] The Hon Lara Giddings MP, 'No New Taxes to Fix Budget Challenge' (Media Release, 16 June 2011).

If traditional cider were taxed at the same rate as RTDs, the amount of excise collected would be an additional $96 million in 2013-14 compared with the estimated WET collection of $55 million.

This assumes that:

- traditional cider sales would decrease by 50 per cent in response to a tax increase (NB this is a conservative estimate); and
- the reduction in traditional cider consumption would result in an equivalent increase in the number of LPAs of other products being consumed (e.g. one quarter to wine and the remaining quarter to full strength packaged beer). The April 2008 RTD tax increase showed that a tax increase on one product does not generally decrease the total amount of alcohol consumed; it merely results in consumers shifting their consumption from one type of alcohol beverage to another, resulting in increased revenue from sales of other more highly taxed beverages.

A full breakdown of the forecast additional revenue from the reform of traditional cider taxation for the 2013-14 to 2016-17 period is provided in Figure 3-2.

Figure 3-2: Forecast additional revenue from taxation of traditional cider at the Ready-to-Drink product excise duty rate (2013-14 to 2016-17)

($ million)	2013-14	2014-15	2015-16	2016-17	2013-14 to 2016-17
Taxation of traditional cider at RTD excise duty rate	96	97	103	106	403

Source: DSICA estimates.

The anticipated revenue acquired from the reform of traditional cider taxation can be used to fund other alcohol-related tax reforms, removing distortions in the current taxation system and moving towards an alcohol tax regime that is closer to the vision outlined in the Henry Review.

Recommendation 1: Taxation of traditional cider products at the Ready-to-Drink product excise duty rate

That the taxation of traditional cider products be amended from the current WET arrangement to a volumetric tax at the same rate as RTDs.

Estimated revenue impact: $403 million in additional revenue over the forward estimates

4 Tax equivalence for low- and mid-strength Ready-to-Drink products

At present, all RTDs are taxed at a single volumetric rate of $76.37 per LPA (as at 1 February 2013), while beer products are taxed in bands according to alcohol content and receive a 1.15 per cent abv excise-free threshold. This inequitable system fails to support health and social policy objectives and creates distortions in the alcohol market.

This chapter outlines the reasons for introducing tax equivalence for low- and mid-strength RTDs and the estimated cost to revenue of this taxation change.

4.1 Operation and effects of the Ready-to-Drink product excise duty rate

There is a significant difference in the excise duty paid by low- and mid-strength RTDs when compared to that paid by low- and mid-strength packaged beer products.

The current excise duty rates applied to beer products account for the different bands (i.e. low-, mid- and full-strength) of alcohol strength seen in this market segment, while RTDs are subject to a single excise duty rate regardless of product strength. In addition, beer products are subject to a 1.15 per cent excise-free threshold, while RTDs are not.

In practice, these anomalies result in significant differences in the excise duty paid by RTDs and packaged beer as follows:

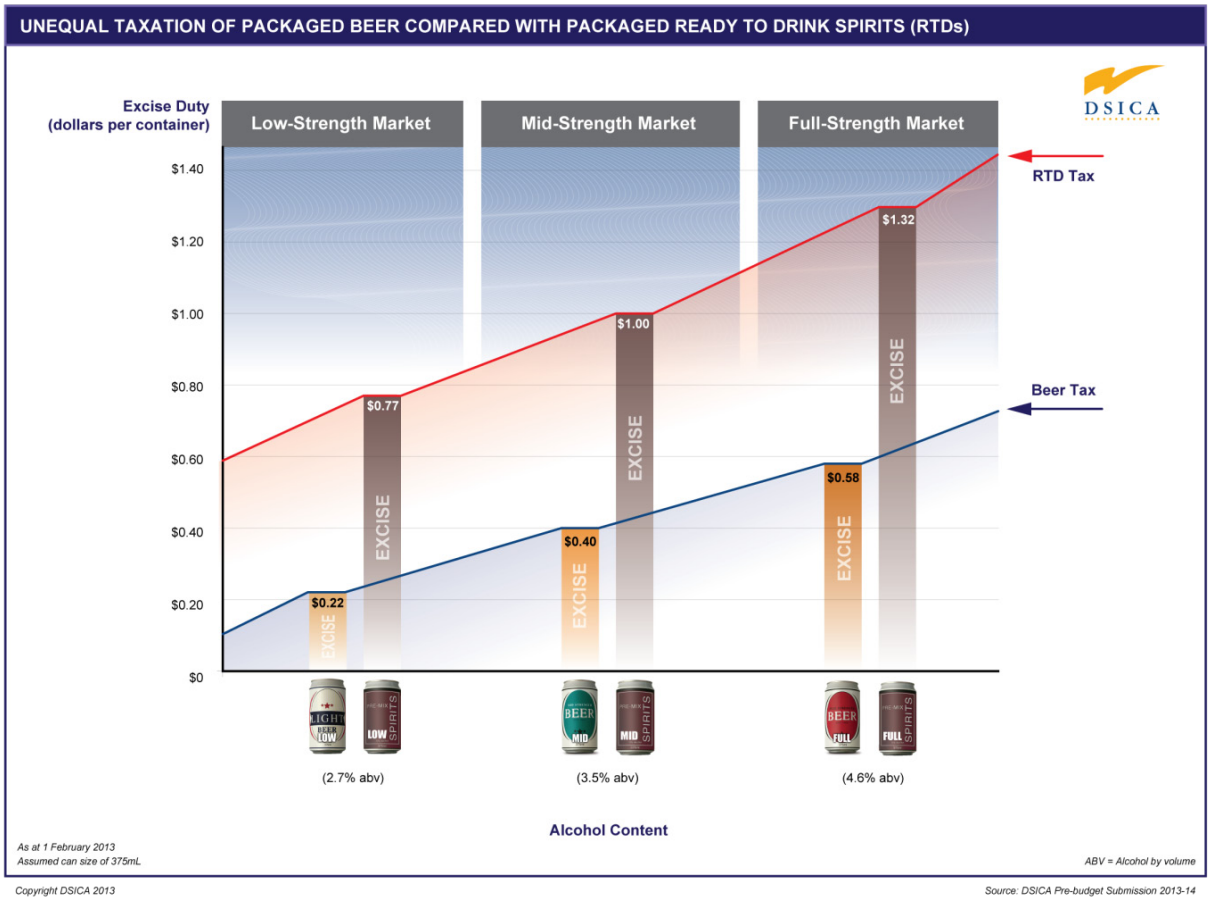
- the amount of excise duty payable on a mid-strength RTD can ($1.00) is almost twice as much as the amount of excise duty payable on a full-strength can of beer (58 cents); and
- the amount of excise duty payable on a low-strength RTD can (77 cents) is approximately one-third more than a full-strength can of beer.

These flaws are a direct result of the fact that low- and mid-strength RTDs receive neither:

- the benefit of the 1.15 per cent abv excise-free threshold granted to packaged beer of similar alcohol strength; nor
- the concessional excise duty rates granted to low-strength packaged beer.

This is illustrated in Figure 4-1.

Figure 4-1: Unequal taxation of packaged beer compared with Ready-to-Drink products as at 1 February 2013



The volumes of mid-strength RTDs are very small at present, and there are no low-strength RTDs that DSICA is aware of. Examples of mid-strength RTDs include Bundaberg Rum and Cola Mid (3.5 per cent abv) and Jim Beam and Cola (3.5 per cent abv). The lack of tax equivalence with mid-strength beer continues to prevent these products gaining any market share of significance. The absence from the market of low- and mid-strength RTDs is a glaring anomaly and suggests a loss of consumer welfare is being caused by the differential tax treatment between packaged beer and RTDs.

4.2 Reform to achieve health and social policy objectives

Submissions from both public health advocates and producers to the Henry Review process generally supported lower rates of tax on lower strength alcohol products. Even the Government has acknowledged the desirability of lower taxes on low-strength alcohol products as a means of incentivising the manufacture of these products.[9] However, there is presently no incentive for RTD manufacturers to develop lower alcohol pre-mixed spirit-based products, with all RTDs being taxed at the same volumetric rate as full-strength bottled spirits and lacking an excise-free threshold.

DSICA further acknowledges that the Australian population is increasingly aware of the ramifications of drink driving and the prevalence of Random Breath Testing. The availability of low- and mid-strength beer products strongly influences consumption decisions of those who choose to consume alcohol and drive – enabling them to partake in social occasions whilst limiting their alcohol intake. Given this, it is unsurprising that low- and mid-strength beer products represent some 17 per cent of the total beer market (when measured in LPAs) – there is a clear demand in the Australian alcohol

[9] Preventative Health Taskforce, *Australia: The Healthiest Country by 2020, National Preventative Health Strategy – The Roadmap for Action* (Australian Government, 2009) 254.

market for such products. DSICA contends that the creation of tax equivalence for low- and mid-strength RTDs with packaged beer of equivalent alcohol content would enhance this market sector, enhancing the availability of lower-strength alcohol products for Australian consumers.

DSICA considers that there is a sound policy case for providing complete tax equivalence between low- and mid-strength RTDs and low- and mid-strength packaged beer. This would result in the 1.15 per cent abv excise-free threshold also applying to low- and mid-strength RTDs and is consistent with the findings of the Henry Review. As part of this proposal, full-strength RTD products would continue to be taxed at their existing excise duty rate, as outlined in Figure 4-2 below.

Figure 4-2: Proposed excise duty rates to facilitate tax equivalence between low- and mid-strength Ready-to-Drink products and packaged beer (as at 1 February 2013)

Product	Current excise duty rate (as at 1 February 2013)	Proposed excise duty rate (as at 1 February 2013)
Low-strength RTDs (≤ 3° abv)	$76.37 per LPA	$38.70 per LPA and subject to 1.15° abv excise-free threshold (same as low-strength packaged beer excise duty rate)
Mid-strength RTDs (> 3° abv ≤ 3.5° abv)	$76.37 per LPA	$45.08 per LPA and subject to 1.15° abv excise-free threshold (same as mid-strength packaged beer excise duty rate)
Full-strength RTDs (> 3.5° abv)	$76.37 per LPA	$76.37 per LPA (same as existing RTD excise duty rate)

The Henry Review stated that 'low-alcohol products can be considered as having a social benefit to the extent that they substitute for higher strength alcohol products that impose greater spill over costs on the community', going so far as to characterise extremely low alcohol products as 'harmless'.[10] The Henry Review also rejected submissions that sought to argue that RTDs caused more harm compared with other alcohol beverages, and therefore should be taxed at a higher rate.[11]

The Henry Review also recommended that the 1.15 per cent abv excise-free threshold currently applying to beer should be extended to all beverages.[12] Furthermore, the Preventative Health Taskforce report also recognised that lower taxation rates for lower alcohol beverages are a desirable feature of a tiered volumetric alcohol tax system.[13]

4.3 Cost of facilitating tax equivalence

A full breakdown of the forecast costs arising from facilitating tax equivalence for low- and mid-strength RTDs for the 2013-14 to 2016-17 period is provided in Figure 4-3. This cost could be funded from the revenue to be derived from the taxation of traditional cider products at the RTD excise duty rate.

Figure 4-3: Forecast costs from facilitating tax equivalence for low- and mid-strength Ready-to-Drink products (2013-14 to 2016-17)

($ million)	2013-14	2014-15	2015-16	2016-17	2013-14 to 2016-17
Tax equivalence for low- and mid-strength RTDs	5	5	5	5	20

Source: DSICA estimates.

[10] Ken Henry et. al., *Australia's Future Tax System – Report to the Treasurer (Part Two – Detailed Analysis)* (Australian Government, 2009) 436.
[11] Ibid 435.
[12] Ibid 440.
[13] Preventative Health Taskforce, above n 9, 254.

Recommendation 2: Tax equivalence for low- and mid-strength Ready-to-Drink products

That the Government introduce taxation equivalence between low- and mid-strength packaged RTDs and packaged beer of similar alcohol content by applying the same volumetric rates as well as applying the 1.15 per cent abv excise-free threshold.

Estimated revenue impact: $20 million cost over the forward estimates

5 Removal of the concessional excise duty rate applying to brandy products

At present, all brandy products are subject to a concessional excise duty rate of $71.31 per LPA (as at 1 February 2013) – approximately seven per cent less than the excise duty rate applied to all other full-strength bottled spirits products.

DSICA contends that the concessionary brandy excise duty rate is a key anomaly in the Australian alcohol taxation regime which must be addressed through reforming the brandy excise duty rate to that applying to full-strength bottled spirits.

5.1 History of the concessional brandy excise duty rate

DSICA understands that the concessionary excise duty rate was announced in the 1979 Federal Budget, when it was decided that, due to the significant volumes of brandy produced locally, such products ought to receive concessional taxation treatment.

Notwithstanding this well-intentioned policy decision, the Australian brandy market has changed significantly since this time. Indeed, Australian Bureau of Statistics (ABS) data demonstrates that:

- in 1985-86 (the earliest period for which domestic brandy sales data is available), some two million LPAs of domestically-produced brandy were sold annually; however
- by 2011-12, only 0.4 million LPAs of domestically-produced brandy were sold in Australia.[14]

To this end, the domestic brandy market has contracted – to the point where, in 2011-12, only 45 per cent of total brandy in the Australian market is domestically produced.

In addition to contracting market volumes of domestically produced brandy, it is further noted that no Australian brandy producer sought for an extension of the countervailing duty previously applied to French brandy imports following its expiration in March 2012. This inaction on the part of Australian brandy producers strongly suggests that there is only a small domestic brandy industry.

5.2 Reform to the full-strength bottled spirits excise duty rate

The Henry Review acknowledged that the concessionary brandy excise duty rate is an anomaly in the Australian alcohol taxation regime which reflects a contradictory policy which '*encourage(s) people to drink … brandy rather than spirits*'.[15] DSICA contends that, given the marked similarities between brandy products and other full-strength bottled spirits (in terms of tariff classification, marketing and consumption patterns), and the small domestic brandy market, there is no longer any rationale to maintain differing excise duty rates for brandy and other full-strength bottled spirits.

DSICA's contention is supported by the *Tax Expenditures Statement,* which benchmarks the tax expenditure incurred through the concessional taxation of brandy against the full-strength bottled spirits excise duty rate.[16]

In order to remove structural complexity and anomalies from the Australian alcohol taxation regime, there is a need to reform the brandy excise duty rate to that applying to other full-strength bottled spirits – effectively creating a single excise duty rate for all spirits products. This would result in a small revenue gain to Government over the forward estimates, as demonstrated in Figure 5-1.

[14] Australian Bureau of Statistics, *Shipments of Wine and Brandy in Australia by Australian Winemakers and Importers* (Cat. No. 8504.0) (Australian Government, 2012).
[15] Henry, above n 10, 436.
[16] The Treasury, *Tax Expenditures Statement 2012* (Australian Government, 2013) 180.

Figure 5-1: Forecast revenue from removing the concessional rate of excise levied on brandy (2013-14 to 2016-17)

($ million)	2013-14	2014-15	2015-16	2016-17	2013-14 to 2016-17
Tax brandy at the full strength bottled spirits excise duty rate	5	5	5	5	20

Sources: The Treasury, Tax Expenditures Statement 2012 (Australian Government, 2013) 180; DSICA estimates.

Recommendation 3: Reform of the concessional brandy excise duty rate

That the Government commit to increasing the brandy excise duty rate to that applying to other alcohol beverages over 10° abv, effectively creating a single excise duty rate for all full-strength bottled spirits products.

Estimated revenue impact: $20 million additional revenue over the forward estimates

6 Reform of the Wine Equalisation Tax

The existing taxation regime applying to wine in Australia has created an incentive for low-value, high-volume wine production. Winemakers and health lobby groups are now calling for urgent reform to the wine taxation regime, noting that the very nature of the WET and Wine Producer Rebate are causal factors of the previous 'wine glut' and oversupply of Australian wine.

Wine in Australia is currently taxed at a rate of 29 per cent of its wholesale sales price through the WET. This ad valorem tax was introduced in conjunction with the GST to maintain a tax treatment for wine roughly consistent with the previous Wholesale Sales Tax regime.

The so-called 'wine glut' has been raised as a hurdle to pursuing reform of the WET and Wine Producer Rebate. However, the wine glut has ended.

This chapter discusses the following issues:

- the earlier 'wine glut' and evidence indicating that the wine market is returning to an 'in-balance' position;
- the effect of the WET on alcohol consumption patterns; and
- DSICA's proposal for transitioning to a volumetric wine tax regime.

6.1 End of the 'wine glut' and the opportunity for reform

The Government contends that it will not address alcohol taxation reform *'in the middle of a wine glut and where there is an industry restructure underway'.*[17] However, industry comments, independent market research and DSICA analysis indicate that the wine glut is at an end – meaning that it can no longer be used as an excuse to delay reforming Australia's alcohol taxation system.

DSICA, Australian Bureau of Agricultural and Resource Economics and Sciences and Wine Australia research findings

In order to provide an evidence base demonstrating the end of the wine glut, two relevant measures are available to determine whether the supply and demand of wine is 'in-balance':

- stocks-to-forward sales ratio **(measure one),** which can be analysed from a historical perspective and from projections into the future; and
- demand versus production **(measure two).**

DSICA's analysis of the historical and projected stocks-to-forward sales ratios and historical demand versus production levels supports the consensus view that the wine glut is at an end.[18]

Measure one: stocks-to-forward sales ratio

The stocks-to-forward sales ratio measurement considers the volume of total stock beverage wine (i.e. inventory) against the total sales of Australian wine (both domestic sales and exports) for the following year. The Senate Rural and Regional Affairs and Transport References Committee Inquiry *The operation of the wine-making industry* (the Inquiry) noted that the stocks-to-forward sales ratio is the main indicator of the supply/demand balance.[19] Indeed, the Australian Bureau of Agricultural and

[17] Australian Government, *Tax Forum Discussion Paper – Tax Reform: Next Steps for Australia* (Australian Government, 2011) 30.
[18] A full overview of the data contributing to DSICA's analysis of the 'wine glut' is available in Appendix C.
[19] Senate Rural and Regional Affairs and Transport References Committee, Parliament of Australia, *The operation of the wine-making industry* (2005) [2.13].

Resource Economics and Sciences (ABARES) notes that *'because wine sales are typically made from stocks, the ratio of stocks-to-forward sales can be used to gauge changing market conditions'.*[20]

There are a number of opinions regarding the desired level of the stocks-to-forward sales ratio for the Australian wine market, including options from:

- **ABARES,** which stated in 2006 that the *'preferred stock holding is between 1.5 and 1.6 years of sales for red wines and 1.2 and 1.3 years of sales for white wines';*[21] and
- **Wine Australia,** which has stated that the ideal stocks-to-forward sales ratio for all table wine is 1.36.[22]

DSICA's analysis of historical stocks-to-forward sales ratios for red table wine (which is calculated using ABS and ABARES data) indicates that:

- the stocks-to-forward sales ratio has been following a downward trend since 2000-01;
- in three out of the last four years of historical data the ratio has been within ABARES' preferred range; and
- in the most recent year of historical data (2009-10) the ratio was 1.56 and within ABARES' preferred range.

DSICA's analysis of historical stocks-to-forward sales ratios for white table wine (which is calculated using ABS and ABARES data) indicates that:

- the stocks-to-forward sales ratio has been following a downward trend since 2005-06; and
- in the most recent year of historical data (2009-10) the ratio was 1.21 and within ABARES' preferred range.

Further to DSICA's analysis, ABARES has published research and projections of stocks-to-forward sales ratios for red and white table wine out to 2013-14. ABARES' research and projections support DSICA's analysis of the stocks-to-forward sales ratios.

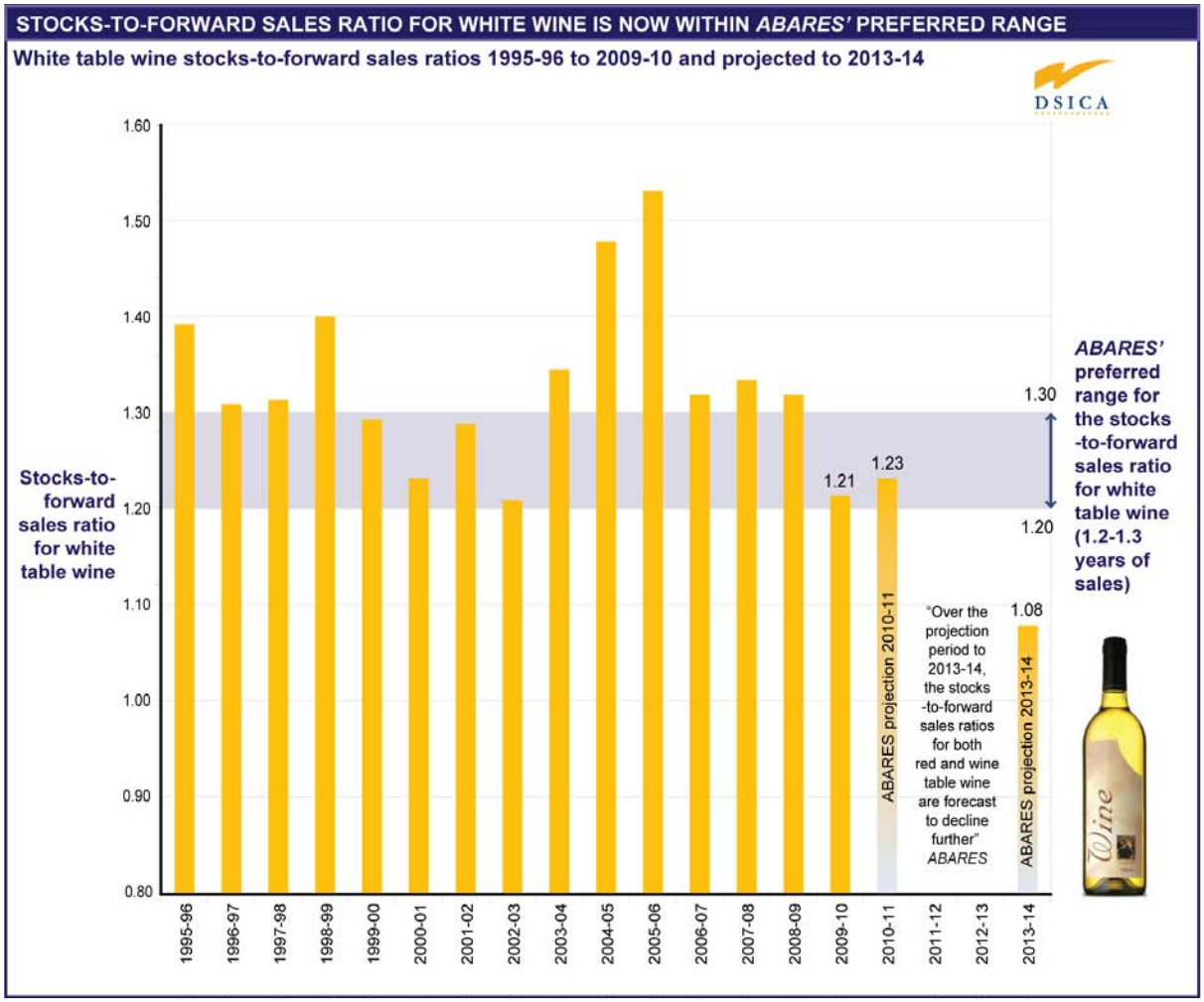
ABARES' research on the stocks-to-forward sales ratio estimates that in 2010-11 the stocks-to-forward sales ratio:

- for red table wine *'fell slightly to 1.53'*;
- for white table wine *'remained largely unchanged at 1.23'*; and
- for all table wine *'was estimated to be 1.40, the lowest since 1994-95'.*[23]

In addition, as demonstrated in Figure 6-1 and Figure 6-2, ABARES has forecast that *'over the projection period to 2013-14, the stocks-to-forward sales ratios for both red and white table wine are forecast to decline further'* and that by 2013-14 the ratios for red and white table wine are projected to be 1.36 and 1.08 respectively.[24]

[20] Caroline Gunning-Trant and Walter Shafron, 'Australian wine grape production projections to 2013-14' (Research Paper No 12.3, Department of Agriculture, Fisheries and Forestry [Australian Bureau of Agricultural and Resource Economics and Sciences], 2012) 18.
[21] Terry Sheales et. al., 'Australian Wine Industry – Challenges for the Future' (Research Paper 06.16, Department of Agriculture, Fisheries and Forestry [Australian Bureau of Agricultural and Resource Economics and Sciences], 2006) 30.
[22] Peter Bailey, *Australian Wine Industry – State of Play* (Wine Australia, 2011) 35.
[23] Gunning-Trant and Shafron, above n 20, 18.
[24] Gunning-Trant and Shafron, above n 20, 19.

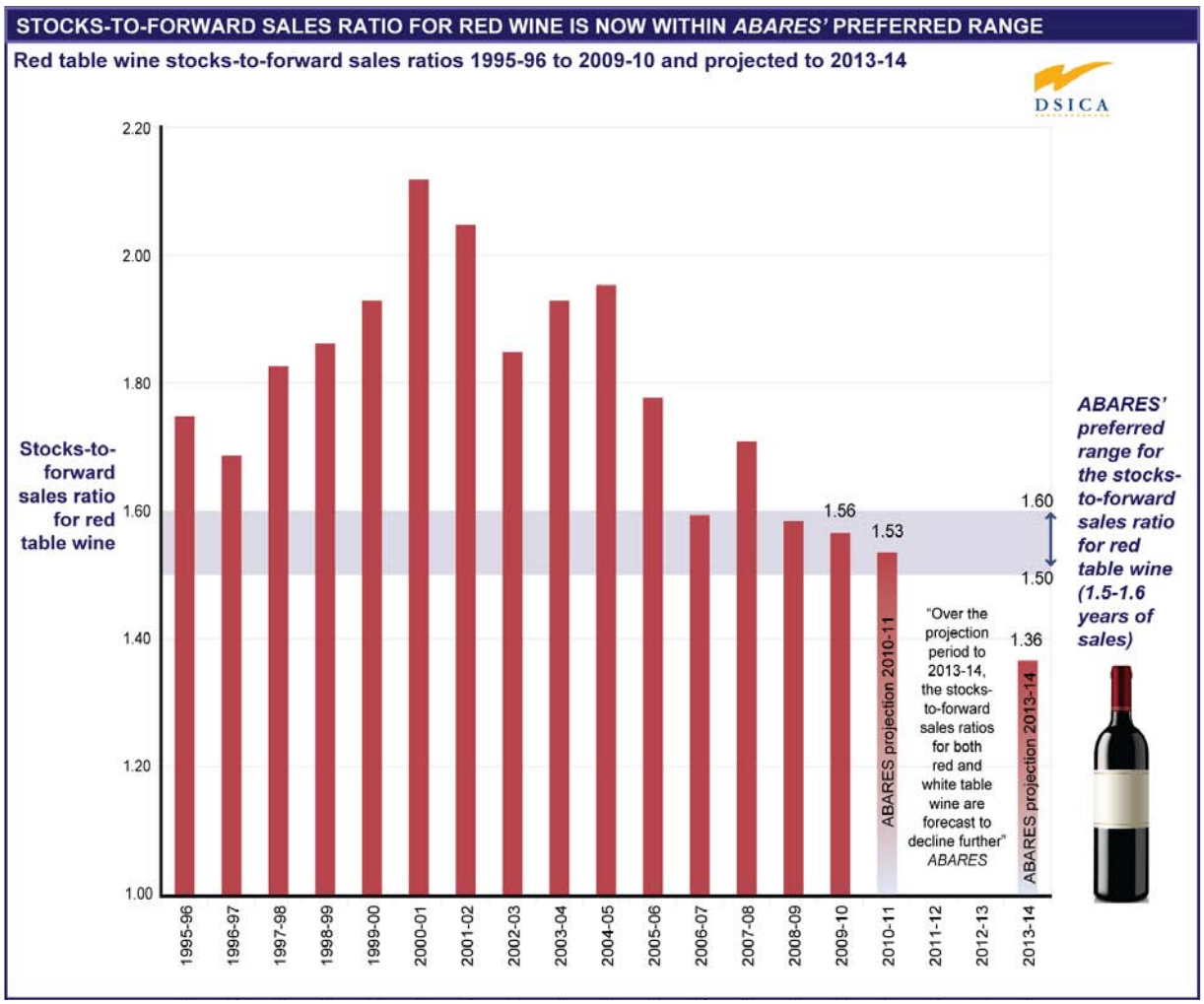
Figure 6-1: Stocks-to-forward sales ratio for white wine (1995-96 to 2013-14)



Copyright DSICA 2013

Sources: ABS, ABARES, DSICA Pre-Budget Submission 2013-14

Figure 6-2: Stocks-to-forward sales ratio for red wine (1995-96 to 2013-14)



Copyright DSICA 2013 *Sources: ABS, ABARES, DSICA Pre-Budget Submission 2013-14*

Based on DSICA's and ABARES' analysis of the stocks-to-forward sales ratio, DSICA contends that it is now incontestable that the level of wine stocks in Australia is currently within, and projected to be below by 2013-14, the preferred range and therefore the wine glut is ending.

Measure two: demand versus production

Analysis of the demand versus production measure indicates that the Australian wine industry is moving to an 'in-balance' position between the supply and demand of wine, providing a further indication that the wine glut is coming to an end.

The demand versus production measure can be analysed in two ways: firstly, by comparing the bearing area required to meet the demand for Australian wine (both domestic sales and exports) against the actual bearing area of Australian vines, and secondly, by comparing Australian wine production and sales history.

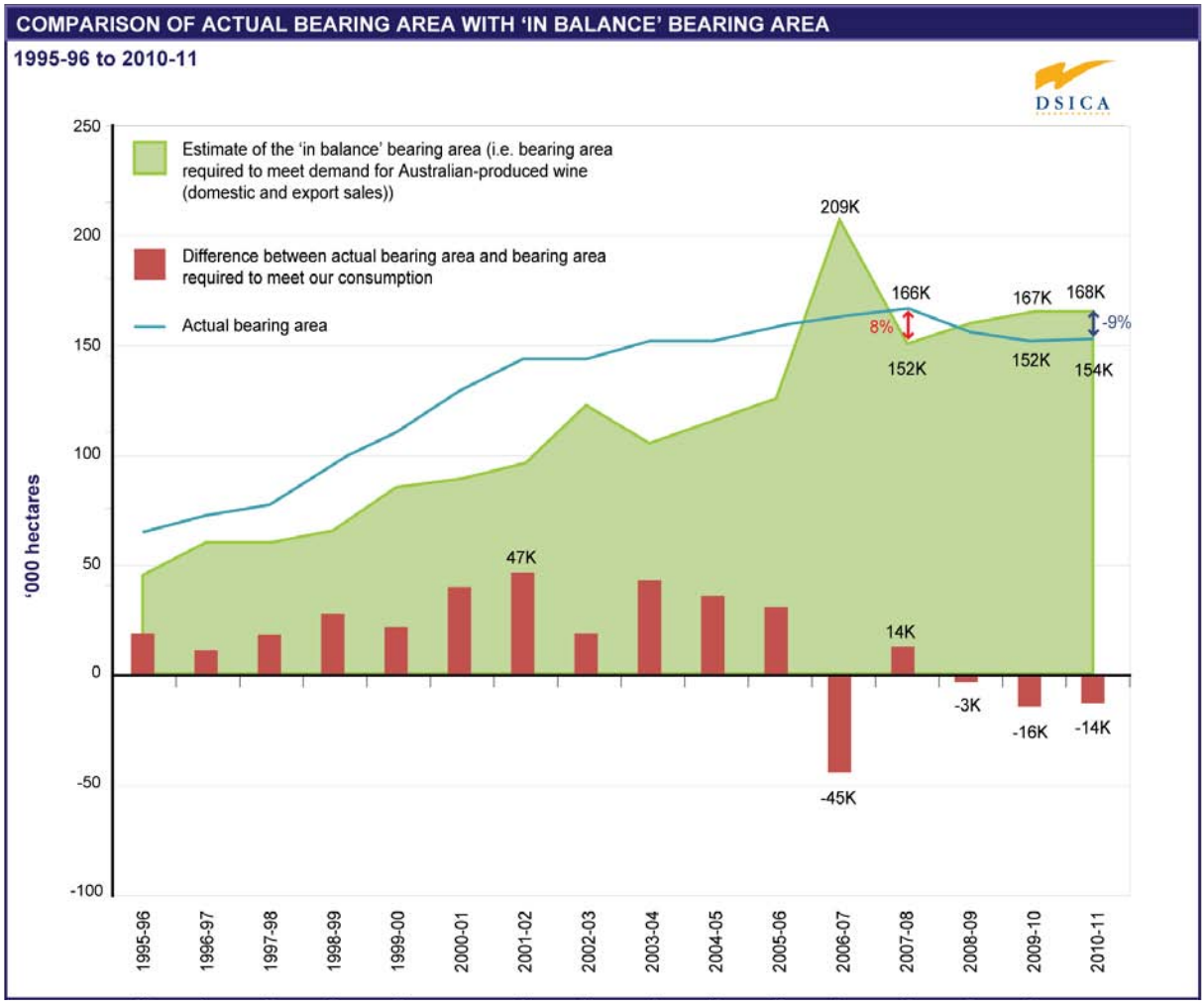
DSICA's analysis of the comparison between the actual bearing area and the 'in-balance' bearing area for the period 1995-96 to 2010-11 indicates that:

- in four of the last five years, the ideal 'in-balance' bearing area has exceeded the actual bearing area; and

- the wine industry is moving to an 'in-balance' position between the supply and demand of wine. While there were eight per cent surplus bearing vines in 2007-08, in 2008-09, 2009-10 and 2010-11, there was a deficit of bearing vines of two per cent, ten per cent and nine per cent in each year (respectively).

These findings are outlined in Figure 6-3.

Figure 6-3: Comparison of actual bearing area with 'in-balance' bearing area (1995-96 to 2010-11)

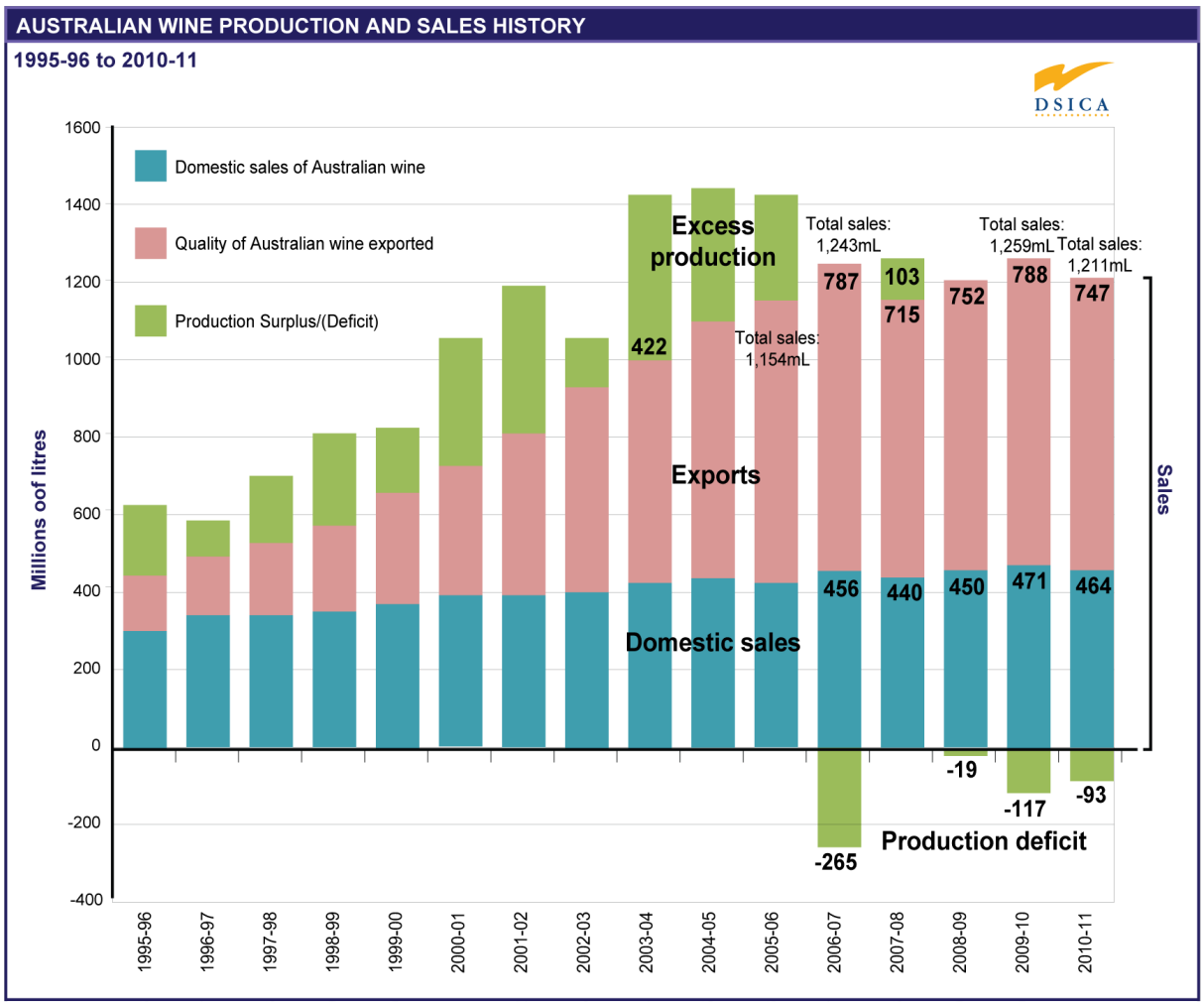


Copyright DSICA 2013

Source: Australian Bureau of Statistics, Australian Wine and Grape Industry, Cat. No. 1329.0

DSICA's analysis of the comparison between the Australian wine production and sales history for the period 1995-96 to 2010-11 indicates that while production has exceeded combined domestic and export sales demand in 12 of the last 16 years, there have been production deficits in four of the last five years, as demonstrated in Figure 6-4 overleaf.

Figure 6-4: Australian wine production, stock and sales history (1995-96 to 2010-11)



Copyright DSICA 2013 *Source: Australian Bureau of Statistics, Australian Wine and Grape Industry, Cat. No. 1329.0*

If there is a continued reduction in actual bearing area hectares (as the trends in Figure 6-3 suggest), stock levels will fall further below the preferred range for the stocks-to-forward sales ratios over the coming years, as demonstrated in Figure 6-1 and Figure 6-2. This is supported by ABARES, which forecasts that over the projection period to 2013-14, the stocks-to-forward sales ratio for both red and white table wine will decline further.

Based on DSICA's analysis of the demand versus production measure, DSICA contends that the Australian wine industry is moving to an 'in-balance' position between the supply and demand of wine.

DSICA is of the opinion that it is now indisputable that the level of wine stocks in Australia has reached the preferred level and therefore the 'wine glut' is over. Given these considerations, DSICA is of the opinion that it is **now** time for the Government to consider reform to the alcohol taxation system.

Foundation for Alcohol Research & Education research findings

The Foundation for Alcohol Research & Education (FARE) has concluded that *'on balance, the wine industry has stabilised, suggesting that the wine glut is at an end'* and *'this finding has significant*

implications for decision makers, who can no longer use the wine glut as a reason to delay reforming Australia's alcohol taxation system, namely the Wine Equalisation Tax (WET)'.[25]

The independent report *The Wine Glut: An analysis of the oversupply of wine in Australia and progress of the voluntary industry restructure* by FARE identifies six key indicators which may be referred to in identifying the extent of the wine glut as follows:

- industry and stakeholder commentary (i.e. statements made by wine industry bodies and producers on the extent of the wine glut);
- changes in wine inventory levels against restructure targets (i.e. data on changes in wine inventories against the *Wine Restructuring Action Agenda* [the Restructuring Agenda] target of a reduction of 100 million cases);[26]
- changes in vineyard areas against restructure targets (i.e. data on changes in vineyard area against the Restructuring Agenda target of 20 per cent of bearing vineyards);
- stocks-to-forward sales ratios (i.e. the actual stock of wine available in a given year, against the actual domestic and export sales in the following year);
- projected stocks-to-forward sales ratios (i.e. the actual stock of wine available in a given year, against the domestic and exports sales in the following year, when the sales data is not yet available); and
- the market share of bulk wine (i.e. the total market share of bulk wine compared to bottled wine).[27]

FARE's analysis of each indicator notes that:

- three of the six indicators (inventory reductions, vineyard reductions and market share of bulk wine) suggest that the wine glut is not over. However, two of these measures are based on targets established by the wine industry itself (via the Restructuring Agenda) in 2009 and have not been reviewed since this time – particularly to account for changing market and environmental conditions over recent years;
- two of the indicators (stocks-to-forward sales ratios and projected stocks-to-forward sales ratios) suggest that the wine glut is coming to an end as the previous imbalance between wine stocks and sales is starting to reach equilibrium; and
- the increase in the market share of bulk wine suggests that there is still some degree of wine oversupply. However, the increase in volume of bulk wine exports is a key factor in reducing the stocks-to-forward sales ratios in recent years, and this reduction suggests that the imbalance in wine stocks and sales is approaching equilibrium.[28]

FARE's holistic analysis of each factor resulted in the conclusion that the wine glut is over – further strengthening and verifying DSICA's analysis.

Industry and investment/broker commentary

Finally, comments from leading wine industry figures and investment analysts support the emerging consensus that the wine glut is over. In particular:

- when asked if the global wine glut was over, Treasury Wine Estates Chief Executive Mr David Dearie noted *'it certainly appears that way … there's a lot of evidence to suggest there is less*

[25] Foundation for Alcohol Research and Education, *The Wine Glut: An analysis of the oversupply of wine in Australia and progress of the voluntary industry restructure* (Foundation for Alcohol Research and Education, 2011) 6.
[26] See Winemakers' Federation of Australia et. al., *Statement to Industry: Wine industry must confront the reality of oversupply* (Winemakers' Federation of Australia, Wine Grape Growers' Australia, the Australian Wine and Brandy Corporation and the Grape and Wine Research and Development Corporation 2009).
[27] Foundation for Alcohol Research and Education, above n 25, 5-6.
[28] Ibid 21.

wine – there's less grapes (and) it looks like we're back to a shortage as we start to look at the impact of the harvests in Europe this year';[29]

- Mr David Powell of Torbreck Wines commented *'the glut doesn't exist anymore … things have dried up quite considerably on the bulk market';*[30]
- Mr David Thomas of brokerage and investment group CLSA noted that *'while the industry is not booming, it has got a lot closer to having its house in order';*[31] and
- evidence from Macquarie Equities Research estimates that *'Australian demand supply [sic] could be in balance by Vintage (20)14'.*[32]

These research findings from both within the Australian wine industry, and from a more objective perspective, strongly support DSICA's view that the wine glut is over. There is no longer any credible basis on which the wine glut may be relied upon to delay alcohol taxation reform opportunities.

Recommendation 4: Government acknowledgement of the end of the 'wine glut'

That the Government confirm that the significant majority of available evidence indicates that the 'wine glut' has ended, and therefore does not inhibit consideration, development and implementation of alcohol taxation reform options.

6.2 Effect of the Wine Equalisation Tax on alcohol consumption patterns

At a time when total alcohol consumption is in long-term decline, wine consumption is increasing. As wine is taxed on the basis of value (rather than alcohol content), wine producers are encouraged to produce wine products on a low value, high volume basis.

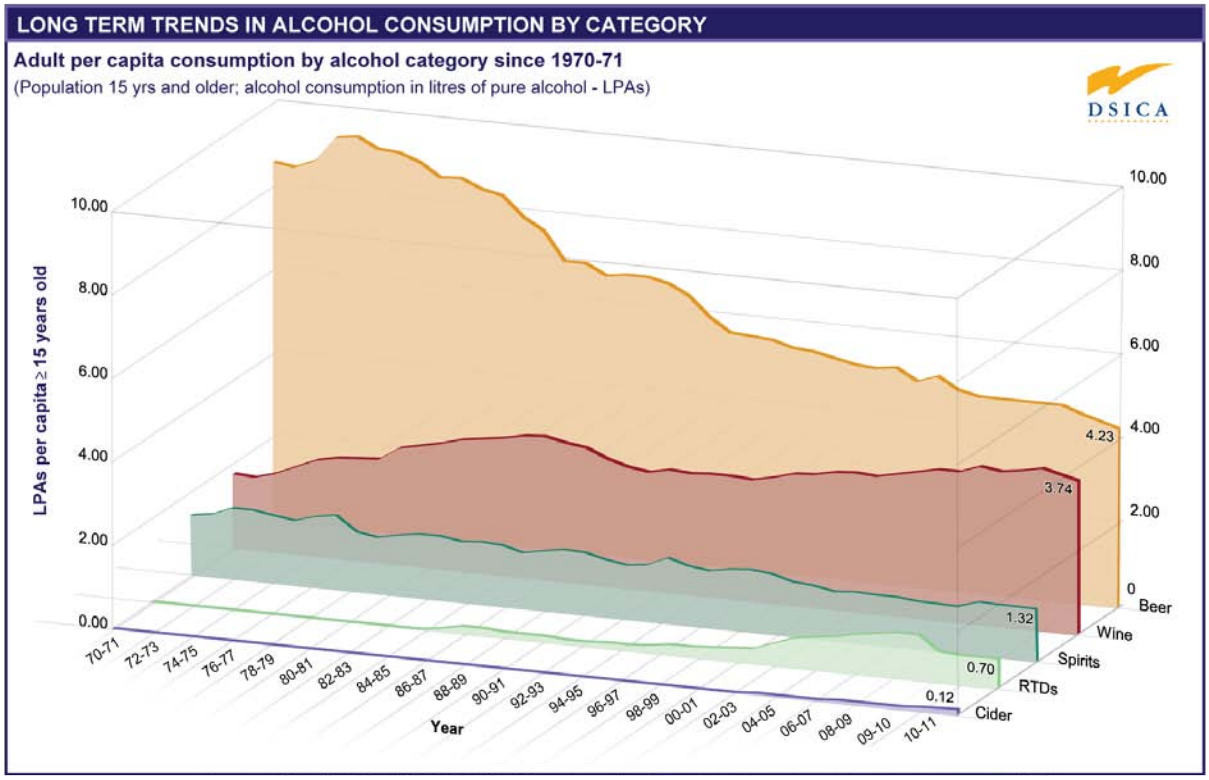
This has (in a large part) encouraged the production of cheap cleanskin and cask wine products using excess wine, resulting in considerable discounting of Australian wine products.[33] Indeed, some cleanskin and cask wine products now dominate sectors of the Australian wine market.

This has had an unfavourable impact on alcohol consumption levels. At a time when overall alcohol consumption is in long-term decline, wine consumption is increasing at a rapid rate. As Figure 6-5 demonstrates:

- beer consumption is in long-term decline, reducing from a high of 9.22 LPAs per capita in 1974-75 to only 4.23 LPAs per capita in 2010-11 (a reduction of 54 per cent);
- spirits consumption is stable at approximately 1.32 LPAs per capita in 2010-11; and
- wine consumption has risen from a low of 1.71 LPAs per capita in 1971-72 to 3.74 LPAs per capita in 2010-11 an increase of approximately 119 per cent over 39 years. Over the past ten years alone, wine consumption has grown by 15 per cent.

[29] 'Treasury Wine says wine glut is over', *The Australian* (online) 22 October 2012 <http://www.theaustralian.com.au/business/breaking-news/treasury-wine-says-wine-glut-is-over/story-e6frg90f-1226500930209>.
[30] Julie-anne Sprague, 'Future looks vine for the winemakers', *The Weekend Australian Financial Review* (Sydney), 5-6 May 2012, 10.
[31] Ibid.
[32] Greg Dring and Rob Blythe, *Treasury Wine Estates: Not cheap* (Macquarie Equities Research 2012) 3.
[33] Premium Wine Brands (Pernod Ricard), *Premium Wine Brands' Submission to the Federal Government Tax Forum* (Premium Wine Brands [Pernod Ricard] 2011) 3.

Figure 6-5: Long-term trends in alcohol consumption by category (1970-71 to 2010-11)



Copyright DSICA 2013

Source: ABS, LMAA, DSICA Pre-Budget Submission 2013-14

The taxation of wine on an ad valorem basis fails to give effect to the Government's health and social policy goals and does not create an environment in which consumers can make responsible consumption decisions on the basis of alcohol content, rather than price.

6.3 Industry and community support for reform

The wine industry confirms that the earlier 'wine glut' has been exacerbated by the operation of the existing WET and Wine Producer Rebate. As the WET encourages producers to produce wine on a low value, high volume basis and the Wine Producer Rebate supports the continuance of small otherwise unprofitable wineries, the following problems have arisen:

- the introduction of unsustainably low grape prices in Australia, which is threatening continued grape supply from all grape growers rather than only those who have uneconomic business structures;
- damage to the Australian wine brand resulting in considerable discounting of Australian wine products in domestic and export markets due to:
  - poor-quality products entering the market due to a focus on the volume of wine sales rather than the development of high-value, quality products; and
  - the emergence of cheap cleanskin and cask wine products produced using cheap excess wine, some of which dominate sectors of the wine market.[34] This has been the subject of considerable media attention which has focused on the abuse of low-price cask (and low-price cleanskin bottled) wine, particularly in Indigenous communities.[35] It is noted that cask wine pays a minimal tax of approximately eight cents per standard drink.

[34] Ibid.
[35] Sue Dunlevy and Milanda Rout 'Alcohol floor "a hit on elderly and poor"' *The Australian* (online), 9 June 2011 <http://www.theaustralian.com.au/national-affairs/alcohol-floor-a-hit-on-elderly-and-poor/story-fn59niix-1226071994602 >.

The current calls for reform of the WET to a volumetric taxation system are unprecedented in Australia. In particular:

- **Premium Wine Brands (Pernod Ricard)** and **Treasury Wine Estates** have now called for the introduction of a volumetric tax system for wine products. Premium Wine Brands (Pernod Ricard) has noted that the introduction of a volumetric tax system will *'support sustainable value growth of the industry and … incentivise the production of premium products';*[36]
- the **Brewers Association of Australia and New Zealand** *'believes that wine should be taxed on the basis of alcohol content, not price'* and *'contend(s) that it would be good public policy to have all alcohol taxed on a category volumetric basis';*[37]
- **health lobby groups** have noted that WET reform is the first step to be pursued in reform of the Australian alcohol taxation system;[38] and
- **The Greens** have noted that *'we need a more consistent and straightforward approach which taxes wine based on the volume of alcohol it contains, rather than rewarding wine producers for making the cheapest product possible'.*[39]

The Government has reiterated that it will not pursue reform of the Australian alcohol taxation system *'in the middle of a wine glut and where there is an industry restructure underway'.*[40] However, large wine producers note that existing WET arrangements are contributing to the earlier 'wine glut'. In particular,:

- **Premium Wine Brands (Pernod Ricard)** indicates that *'taxing wine on the basis of value rather than alcohol content means that low cost wine products attract a significantly lower tax burden than premium products. This, in turn, creates a price incentive for people to buy (and therefore industry to produce) low cost wines, fuelling the oversupply and inhibiting industry restructuring';*[41] and
- **Treasury Wine Estates** notes *'the Wine Producer Rebate is a damaging subsidy that has negatively impacted the profitability and productivity of the industry … preventing consolidation and sustaining uneconomic production'.*[42]

Industry representatives contend that not only are existing WET arrangements contributing to the previous 'wine glut', but the Australian wine market has returned to an 'in-balance' position – even to the point of wine shortages.[43]

6.4 Wine Producer Rebate concerns and reform opportunities

Operation of the Wine Producer Rebate is fraught with problems, including support for otherwise unprofitable businesses, resulting in the previous oversupply of Australian wine and the earlier 'wine glut'. Major industry players and DSICA support abolition of the Wine Producer Rebate.

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[36] Premium Wine Brands (Pernod Ricard), above n 34, 1. See also Treasury Wine Estates, *Submission prepared by Treasury Wine Estates Ltd for the Federal Tax Forum – Tax Reform for a Sustainable Australian Wine Industry* (Treasury Wine Estates 2011) 4.
[37] Brewers Association of Australia and New Zealand, *Submission to the Tax Forum for the Environmental and Social Taxes Session* (Brewers Association of Australia and New Zealand 2011) 2.
[38] Alcohol Education and Rehabilitation Foundation, 'AER Foundation calls for urgent reform on the Wine Equalisation Tax' (Media Release, 6 September 2011).
[39] Senator Dr Richard Di Natale (Greens Senator for Victoria), 'Greens back call for alcohol tax reform' (Media Release, 30 April 2012).
[40] The Hon Kevin Rudd MP and the Hon Wayne Swan MP, 'Stronger, Fairer, Simpler: A Tax Plan for Our Future' (Media Release, 2 May 2010); Peter Martin, 'Swan still won't have a bar of alcohol tax changes', *The Sydney Morning Herald* (online) 17 October 2012 <http://www.smh.com.au/opinion/political-news/swan-still-wont-have-a-bar-of-alcohol-tax-changes-20121016-27p50.html>.
[41] Premium Wine Brands (Pernod Ricard), above n 33, 4.
[42] Treasury Wine Estates, *Submission prepared by Treasury Wine Estates Ltd for the Federal Tax Forum – Tax Reform for a Sustainable Australian Wine Industry* (Treasury Wine Estates 2011) 2.
[43] 'Treasury Wine says wine glut is over', above n 29.

This section outlines the problems that have arisen from the introduction of the Wine Producer Rebate which has attempted to address the bias in favour of large producers created by the ad valorem nature of the WET, namely:

- the support it provides for small, otherwise uneconomic wineries, contributing to Australia's earlier 'wine glut'; and
- the fact that it operates as a disincentive against mergers of small wineries.

Significant progress was made in 2012 with the passage of the *Tax Laws Amendment 2012 (Measures No. 5) Act 2012* (Cth). This legislation addresses issues relating to 'double dipping' and tax avoidance associated with the Wine Producer Rebate and was strongly supported by DSICA. It represents a positive step forward which will result in revenue gains of $35 million over the period 2012-13 to 2015-16. As a reform recommendation contained in DSICA's 2012-13 Pre-Budget Submission, DSICA was most pleased to see its adoption announced in the 2012-13 Federal Budget.

Notwithstanding this demonstrated progress, there remains a need to pursue further reform opportunities to abolish the Wine Producer Rebate to address distortions within the Australian wine market.

Operation of the Wine Producer Rebate

The Wine Producer Rebate supports small, otherwise uneconomic wineries and prevents the merging of small wineries, creating market distortions and reflects contradictory policies.

As wine is taxed under the ad valorem WET (i.e. on a value basis), wines with the same alcohol content can be subject to different levels of taxation. The cheaper the wine, the less it is taxed. Therefore, a value-based tax favours cheaper wines that tend to have lower profit margins, and are often made by large producers.

The Wine Producer Rebate was originally introduced in 2004 in an attempt to address the bias in favour of larger producers created by the ad valorem nature of the WET. The rebate of up to $500,000 per year means that the first $1.7 million of domestic wholesale wine sales per producer are effectively exempt from WET.

However, the Wine Producer Rebate does not provide an efficient solution to this problem because it creates biases of its own in favour of smaller producers. Small producers effectively pay no net WET, but the rebate reduces only a proportion of the WET paid by larger producers. As a result, two similar bottles of wine – one from a large producer, one from a small producer – pay different amounts of tax. Thus, while the Wine Producer Rebate does provide tax assistance to smaller producers, at the same time, it does not allow wines to compete on an equal footing.

The Wine Producer Rebate encourages small-scale production and supports some small, otherwise uneconomic wineries, contributing further to the previous oversupply of wine. The wine industry conducted a study which found that, in 20 of the 50 wine producing regions reviewed, more than half the production is uneconomic, while in ten regions 70 per cent or more is uneconomic.[44] The Henry Review, the Winemakers Federation of Australia (WFA), Premium Wine Brands (Pernod Ricard) and Treasury Wine Estates have all expressed this concern as follows:

- The **Henry Review** found that *'the Wine Producer Rebate fosters small-scale production and supports some small, otherwise uneconomic wineries' and may be … discouraging mergers within the industry'*[45]*;*
- The **WFA** acknowledges that *'structural surpluses of grapes and wine are now so large that they are causing damage to (the) industry by devaluing the Australian brand, entrenching discounting,*

[44] Asa Wahlquist, 'Storm clouds threatening wine industry's blue sky' *The Australian* (online), 19 November 2009 < http://www.theaustralian.com.au/business/storm-clouds-threatening-wine-industrys-blue-sky/story-e6frg8zx-1225799458597>.
[45] Henry, above n 10, 438.

undermining profitability and eroding profitability' and the Wine Producer Rebate is a 'contributing factor' to this;[46]

- **Premium Wine Brands (Pernod Ricard)** has stated that *'existing tax arrangements are distorting market forces by … incentivising the production and sale of cheaper wines, contrary to the industry-endorsed strategy of value building through premium, branded products';*[47] and
- **Treasury Wine Estates** has noted that *'to the extent that genuine Australian wine producers are receiving the rebate, a significant percentage of these businesses are marginal and in effect being artificially sustained by it'.*[48]

Moreover, the Wine Producer Rebate also provides an incentive against mergers between small wineries, which may prevent producers being able to take advantage of economies of scale. This means that resources such as land, water and capital are not being used efficiently. By supporting uneconomic wineries, the current arrangements are likely to increase the costs of production for wineries which are efficient. This also serves to exacerbate the problem of excess production that recently characterised the wine industry in Australia.

Identification in the Tax Expenditures Statement

The annual Tax Expenditures Statement identifies the Wine Producer Rebate as a tax expenditure. As demonstrated in Figure 6-6, in 2013-14, the Wine Producer Rebate is expected to cost the Australian Government $280 million – representing approximately 36 per cent of expected WET revenue.

Figure 6-6: Wine Producer Rebate tax expenditure (2012-13 to 2015-16)

($ million)	2013-14	2014-15	2015-16
Wine Producer Rebate expenditure	280	300	310

Source: The Treasury, Tax Expenditures Statement 2012 (Australian Government, 2013) 183.

Wine industry restructure

Wine industry restructuring attempts have been hampered by the operation of the Wine Producer Rebate, which shields unprofitable businesses and discourages mergers.

In November 2009, the national wine industry organisations launched a Wine Restructuring Action Agenda (the Action Agenda) aimed at confronting the issues of grape and wine oversupply. The Action Agenda identified that at least 20 per cent of bearing vines were surplus to requirements, and that the problem was not restricted to specific regions, varieties or price points.[49]

The Rudd Government's May 2010 decision not to commence implementation of the Henry Review recommendations on alcohol taxation was clearly influenced by the Action Agenda.[50]

In December 2010, the national wine industry organisations made a second statement on the progress being made to address the oversupply situation. One of the key conclusions was that:

> *'The process of adjustment is not proceeding at a sufficient pace. A combination of unrealistic expectations, non-commercial motives and short-term opportunism continues to motivate many operators to resist change.'*[51]

[46] Winemakers' Federation of Australia, Wine Grape Growers' Australia and the Australian Wine and Brandy Corporation, 'Statement to Industry: Wine sector must continue to focus on transition' (Media Release, 6 December 2010).
[47] Premium Wine Brands (Pernod Ricard), above n 33, 1.
[48] Treasury Wine Estates, above n 42, 5.
[49] Winemakers' Federation of Australia, Wine Grape Growers' Australia, the Australian Wine and Brandy Corporation and the Grape and Wine Research and Development Corporation, above n 26.
[50] The Hon Kevin Rudd MP and the Hon Wayne Swan MP, above n 40.
[51] Winemakers' Federation of Australia, Wine Grape Growers' Australia and the Australian Wine and Brandy Corporation, above n 26.

The statement identifies a number of factors contributing to the earlier oversupply: total supply, domestic demand, and export demand. Of these, total supply is the one over which the wine industry has most control.

In terms of oversupply in particular, the statement identifies the Wine Producer Rebate as one of the contributing factors which is *'shielding otherwise unprofitable businesses'*.[52]

The Henry Review identified that around half of all wine producers are unprofitable. It further commented that the Wine Producer Rebate may be acting to prevent proper market responses by discouraging mergers.[53] This is also noted by Premium Wine Brands (Pernod Ricard) and Treasury Wine Estates, which state:

> *'The WET rebate is inhibiting industry restructuring as it subsidises producers who would otherwise not be able to compete in the market and restricts consolidation in the industry.'*[54]
>
> *'It (the Wine Producer Rebate) is a damaging subsidy (which) is preventing consolidation and sustaining uneconomic production at a time when the industry urgently needs to retire excess supply and rebuild value.'*[55]

DSICA shares Premium Wine Brands' (Pernod Ricard) and Treasury Wine Estates' concerns regarding the Wine Producer Rebate and the obstacles it presents to achieving the Action Agenda, and agrees that urgent reform is needed.

Reform option: abolition of the Wine Producer Rebate

The Government is to be congratulated on the passing of the *Tax Laws Amendment 2012 (Measures No. 5) Act 2012* (Cth). However, there is strong support for abolition of the Wine Producer Rebate from major industry players. In particular:

- **Premium Wine Brands (Pernod Ricard)** states that *'the WET rebate system should be abolished'* and *'abolition would be in the best interests of the wine industry'*;[56] and
- **Treasury Wine Estates** states that *'the Wine Producer Rebate, while well intentioned, is a failed policy and must be abolished'*.[57]

DSICA, like Premium Wine Brands (Pernod Ricard) and Treasury Wine Estates, strongly supports abolition of the Wine Producer Rebate. Removal of the Wine Producer Rebate would not only result in cost savings of $1.2 billion over the forward estimates, but would assist in removing one of the causal factors of the previous wine glut.

Figure 6-7 outlines the expected budget savings for the periods 2013-14 to 2016-17 if the Wine Producer Rebate were abolished. These cost savings could be used to:

- fund other alcohol-related tax reforms; or
- provide genuine assistance to small, boutique wineries, should the Government wish to maintain a similar support scheme to that offered by the Wine Producer Rebate. Like FARE, DSICA envisages that this would operate as a structural adjustment package separate to the taxation system to better support the wine industry and target assistance towards small producers, reinstating the original intent of the Wine Producer Rebate.[58]

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[52] Ibid.
[53] Henry, above n 10, 438.
[54] Premium Wine Brands (Pernod Ricard), above n 33, 4.
[55] Treasury Wine Estates, above n 42, 2.
[56] Premium Wine Brands (Pernod Ricard), above n 33, 4.
[57] Treasury Wine Estates, above n 42, 6.
[58] Alcohol Education and Rehabilitation Foundation, *Submission to the Federal Government's Tax Forum* (Alcohol Education and Rehabilitation Foundation, 2011) 4.

Figure 6-7: Forecast revenue from abolition of the Wine Producer Rebate (2013-14 to 2016-17)

($ million)	2013-14	2014-15	2015-16	2016-17	2013-14 to 2016-17
Abolish the Wine Producer Rebate	280	300	310	320	1,210

Sources: The Treasury, Tax Expenditures Statement 2012 (Australian Government, 2013) 183; DSICA estimates.

6.5 Reform of the Wine Equalisation Tax to a volumetric regime

There is strong support for reform of the WET from major industry players, industry associations and healthy lobby groups.

Major industry players and independent research indicates that the operation of the existing WET regime is a structural anomaly in the Australian alcohol taxation system. Given this, reform of the WET to a volumetric taxation regime is being called for in an unprecedented way. In particular:

- **Premium Wine Brands (Pernod Ricard)** has stated that it *'supports the reform of the wine tax system in Australia so that wine is taxed by alcohol content (i.e. a volumetric tax), with the tax rate set to reflect a revenue-neutral approach'*;[59]
- **Treasury Wine Estates** has stated that *'wine should be taxed on a volumetric, revenue neutral basis'*, and *'a simple three-tiered structure based on alcohol content bands by volume would be most appropriate for wine'*;[60]
- the **Brewers Association of Australia and New Zealand** has indicated that it is *'in agreement with (a) proposal that wine should be included in a category-based volumetric system'*;[61]
- **peak health lobby groups** including FARE (formerly the Alcohol Education and Rehabilitation Foundation [AERF]) have indicated that *'the current tax arrangement doesn't make economic sense, it doesn't make sense for the health of Australians, and it doesn't make sense for the wine industry'*.[62] The AERF-commissioned report *Alcohol Taxation Reform – Starting with the Wine Equalisation Tax* provides three wine taxation reform scenarios, each of which replace the WET with a volumetric tax;[63] and
- **The Greens** have demonstrated support for WET reform, noting that *'the Wine Equalisation Tax is value-based, which creates a perverse incentive to produce cheap wine rather than high-quality product'*[64] and *'we need a more consistent and straightforward approach which taxes wine based on the volume of alcohol it contains'*.[65]

International comparisons

The WFA has made a number of statements in recent years which suggest that wine in Australia is subject to a high level of taxation by international standards, as part of their case for maintaining the WET. For example, in their 2010-11 Pre-Budget Submission, the WFA stated that 'it is important to note that wine tax in Australia, when measured as consumer tax equivalents, is high compared with other Organisation for Economic Co-Operation and Development (OECD) countries and the OECD average'.[66] However, the facts do not support such a claim.

[59] Premium Wine Brands (Pernod Ricard), above n 33, 4.
[60] Treasury Wine Estates, above n 42, 2.
[61] Brewers Association of Australia and New Zealand, above n 37, 2.
[62] Alcohol Education and Rehabilitation Foundation, above n 38.
[63] The Allen Consulting Group, *Alcohol Taxation Reform – Starting with the Wine Equalisation Tax* (The Allen Consulting Group, 2011), 16-22.
[64] Senator Dr Richard Di Natale (Greens Senator for Victoria), 'Greens back report on alcohol tax reform' (Media Release, 6 September 2011).
[65] Senator Dr Richard Di Natale (Greens Senator for Victoria), above n 39.
[66] Winemakers Federation of Australia, *2010-11 Pre-Budget Submission* (Winemakers Federation of Australia, 2009) 10.

The WFA appear to have based their claims on work undertaken by University of Adelaide academic, Professor Kym Anderson. In February 2010, Professor Anderson presented a comparative study completed in December 2009 of excise and import taxes on alcohol beverages around the world, titled *Excise and Import Taxes on Wine, Beer and Spirits: An International Comparison.*[67] The paper uses this concept of 'consumer tax equivalents' and compares the level of taxes charged on beer, wine and spirits in some 46 countries around the world, including all countries in the OECD except for Israel. Because Australia uses an ad valorem tax on wine, while some other countries have volumetric excises, Australia's ranking in terms of 'highest taxes on wine' varies by value of the product. Anderson considers three products:

- 'non-premium' wine – with a retail price of $18.90 per 4L cask;
- 'commercial premium' wine – with a retail price of $12 per 750mL bottle; and
- 'super premium' wine – with a retail price of just under $32 per bottle.

Anderson concludes that, out of the 32 OECD countries studied, with respect to excise taxes on wine:

- for non-premium wine, Australia ranks 14th-highest;
- for commercial premium wine, Australia ranks ninth-highest; and
- for super-premium wine, Australia ranks fifth-highest.[68]

Some other key findings in Anderson are further detailed below.

Non-premium wines are lightly taxed

Anderson confirms that Australia's WET operates to provide tax incentives to produce low-quality, low-priced bulk wine in Australia. Anderson states that non-premium wines are:

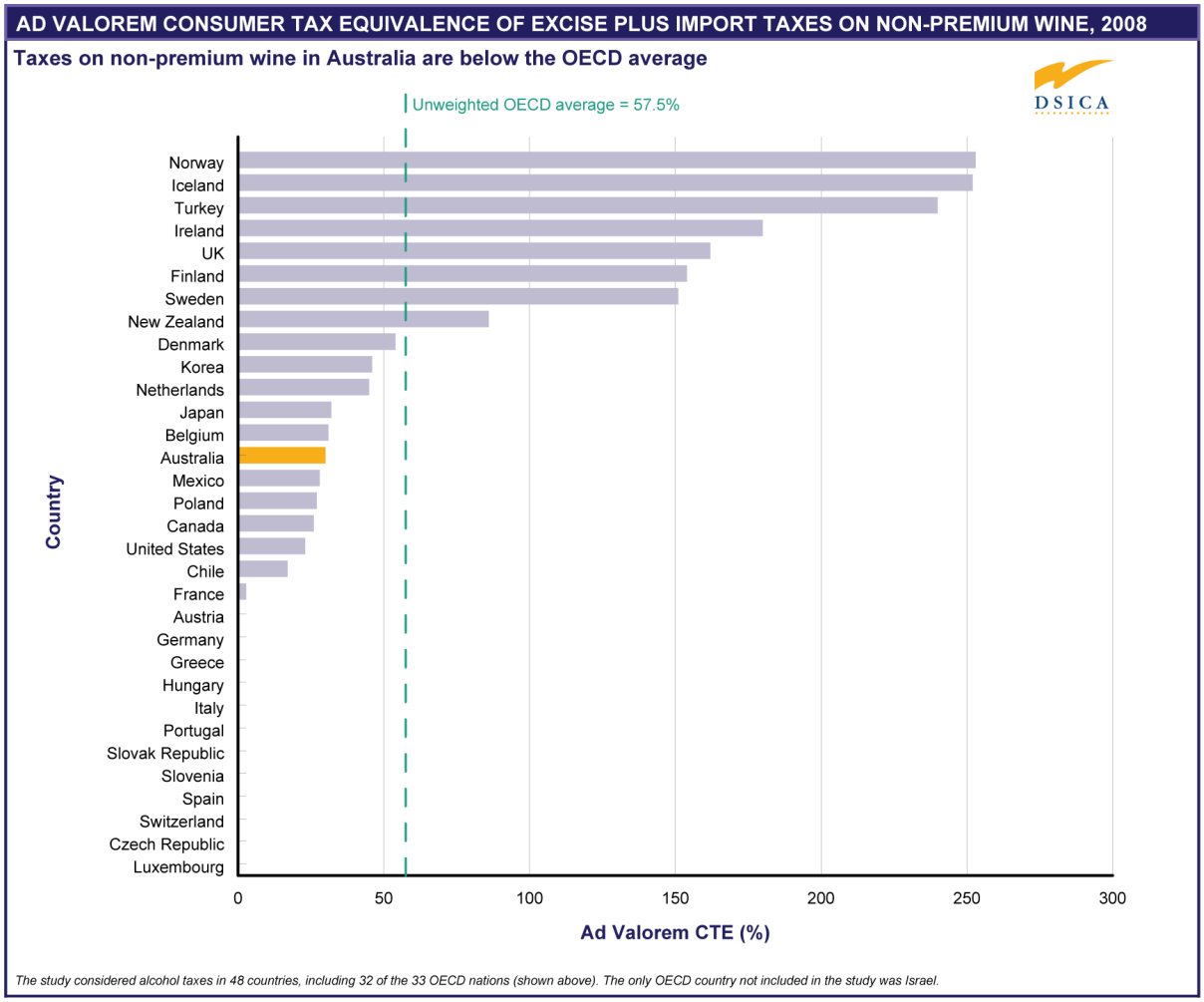
> *'… lightly taxed in Australia relative to other countries except the group of net exporters of wine.'*[69]

Australia's wine taxation rate for non-premium wine is ranked 14th-highest in the OECD on a consumer tax equivalent basis (see Figure 6-8 below). This is **below** the unweighted OECD average.

[67] Kym Anderson, 'Excise and Import Taxes on Wine, Beer and Spirits: An International Comparison' (Paper presented at the pre-AARES Conference Workshop on The World's Wine Markets by 2030: Terroir, Climate Change, R&D and Globalisation, Adelaide, 9 February 2010).
[68] Ibid 12.
[69] Ibid 5.

Figure 6-8: Consumer tax equivalent of excise plus import taxes in OECD countries on non-premium wine 2008

Low-quality wines are comparatively cheaper than beer and spirits



Copyright DSICA 2011 *Source: DSICA PreBudget Submission 201112, Anderson; Excise and Import Taxes on Wine, Beer and Spirits: An International Comparison, Figure 2 and Table 5*

Anderson confirms DSICA's long-held position that low quality and low-priced bulk/cask wine is under-taxed in Australia, relative to other alcohol products:

> *'… the alcohol in beer and spirits is taxed more in Australia than in most other countries, so making low-quality wine an even cheaper source of alcohol relative to non-wine sources in Australia than elsewhere.'*[70]

Because of the value-based nature of the WET, cask wine is available at a retail price of as little as $2 per litre – a price which is less than for bottled water, soft drink, fruit juices and other non-alcoholic drinks. Preventative health advocates have identified the low cost of cask wine as a factor which may promote risky or high-risk drinking.

Super-premium wines are highly taxed because of no volumetric tax

Anderson confirms DSICA's position that high quality bottled wine is over-taxed in Australia under the WET, and would benefit from a volumetric tax similar to that recommended by the Henry Tax Review:

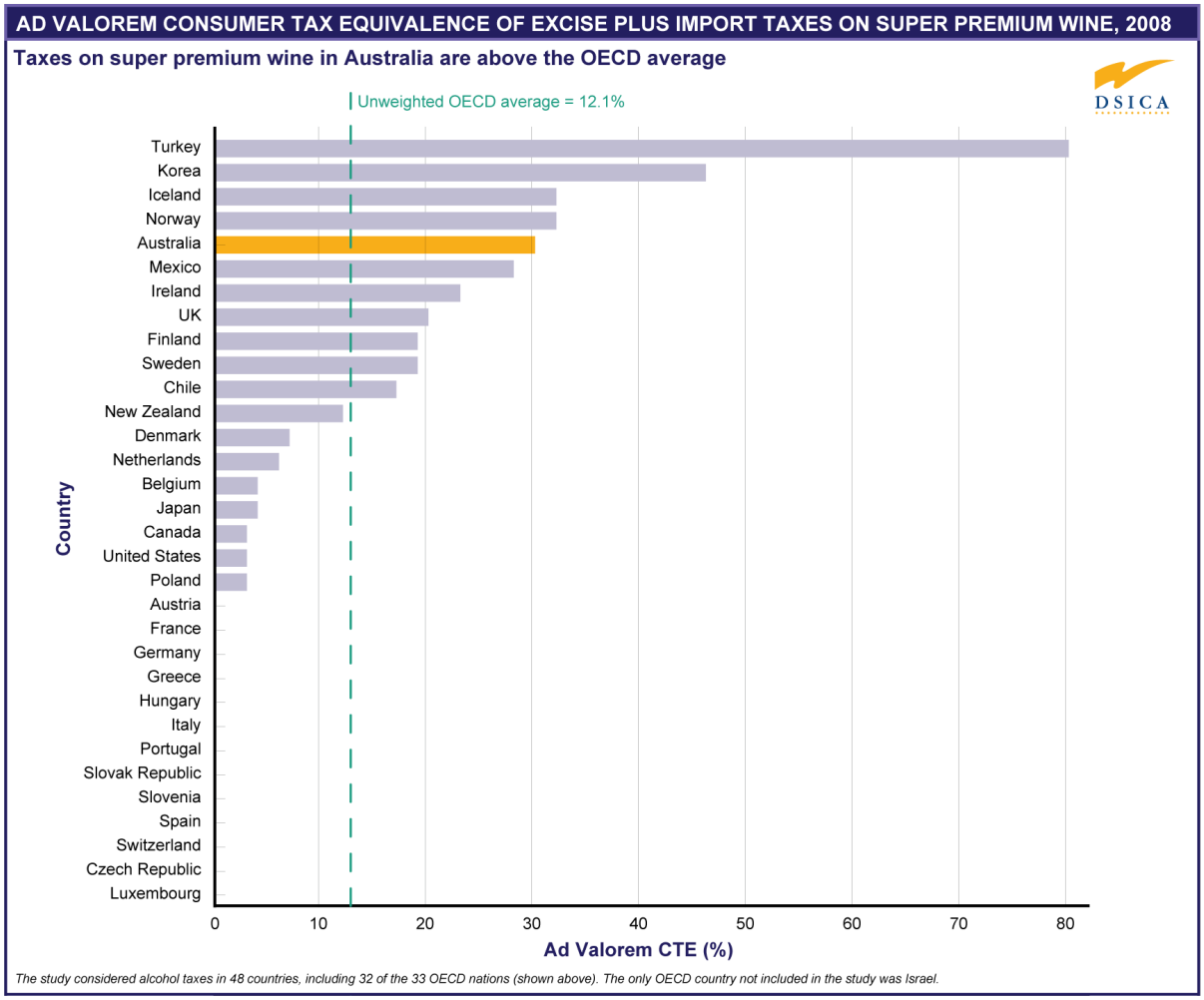
> *'The only group of wine consumers in Australia who could claim to be relatively highly taxed are those who buy super-premium or iconic wines. This is ironic, since they are the*

[70] Ibid.

least likely to contribute to the social problem of binge drinking – which is not the case in other countries because they have a volumetric rather than ad valorem wine taxes.'[71]

In fact, Australia's wine taxation rate for super-premium wine is ranked fifth-highest in the OECD on a consumer tax equivalent basis (see below). The study defines 'super-premium' wine as having a retail price of $32 per 750mL bottle and above.

Figure 6-9: Consumer tax equivalent of excise plus import taxes in OECD countries on super premium wine 2008



DSICA's five-step proposal for wine taxation reform

DSICA has developed a proposal for wine taxation reform which is designed to operate as a transitional step in achieving the long-term aim of a single volumetric excise rate applying to all alcohol beverages. This proposal aims to facilitate an increase in the tax (and price) of cask (and low-price cleanskin bottled) wine, while preserving many of the existing features of the WET. To this end, DSICA contends that the introduction of a volumetric wine taxation regime would assist in removing some inequalities in the current Australian alcohol taxation regime, and allay concerns relating to the low non-GST tax per standard drink burden borne by some wine products which has fuelled debate concerning the introduction of a minimum floor price in Australia. As discussed in Chapter 19, introduction of a volumetric wine taxation regime would create an effective minimum floor price for all alcohol beverages in Australia – without introduction of a separate statutory minimum floor pricing regime.

[71] Ibid.

DSICA's wine taxation reform proposal comprises a five-step approach as follows:

- **retain the WET:** retain the WET as the legal structure for wine taxation, rather than moving wine tax into the excise system;
- **taxation tiers:** introduce several taxation tiers, based upon wholesale sales price points (or other criteria to be developed), equivalent to the economy, semi-premium and premium wine categories;
- **volumetric rate for economy wine:** introduce different taxation rates within those tiers, including a volumetric rate for the economy tier;
- **revenue neutrality:** in setting the relevant volumetric rates for each tier it will be necessary to ensure that the tax to be collected in Year 1 will be no more than the current WET collections; and
- **accelerated indexation:** introduce an accelerated indexation factor for the volumetric rate in the economy tier which would allow convergence to a common rate with the semi-premium tier over a phase-in period.

Each of these steps is described in greater detail below.

Step one – retain the existing Wine Equalisation Tax as the taxing system

The proposal would involve retention of the existing WET system legislative infrastructure (rather than moving wine taxation into the excise system). This would minimise administrative disruption for wine producers and also minimise any compliance changes otherwise required under the excise system. It is proposed that:

- administration of wine taxation should continue under the *A New Tax System (Wine Equalisation Tax) Act 1999* (Cth); and
- wine products should continue to be taxed at the last wholesale sales point, as is current practice under the WET.

The objectives of this approach are to 'neutralise' the traditional resistance that is expected from winemakers regarding a potential move into the excise system. In particular, it will remove the need for winemakers to obtain excise licences or to implement bonded warehouses. In addition, this would also allow the Wine Producer Rebate to be retained (if the Government were reluctant to abolish it), possibly in an amended form, to continue to support legitimate small winemakers.

DSICA notes that this approach to amend the *A New Tax System (Wine Equalisation Tax) Act 1999* (Cth) (rather than moving wine taxation into the excise system) is supported by Premium Wine Brands (Pernod Ricard) which noted:

> *'The volumetric wine tax should be administered through the existing wine tax system, avoiding the need for excessive administrative burdens and complexity for the industry, in particular small winemakers.'*[72]

Step two – introduce taxation tiers (possibly defined by wholesale sales price points)

The wine industry has traditionally opposed the concept of a single volumetric wine tax as a 'flat earth' approach that could not take account of the various categories within the wine market. DSICA's proposal addresses this concern by introducing several taxing tiers, which would be set for the commonly recognised categories of wine products. These taxing tiers could be defined by wholesale sales price (or some other criteria to be developed).

This would allow three (or more) taxing tiers with different (escalating) volumetric rates being set for each tier. These tiers could be based on the commonly recognised categories: economy (i.e. cask

[72] Premium Wine Brands (Pernod Ricard), above n 33, 1.

wine), semi-premium and premium wine products. An initial outline of the conceptual framework is outlined in Figure 6-10.

Figure 6-10: Illustrative wholesale sales price tiers and equivalent volumetric taxation rates

Price tier reference	Proposed wholesale sales price tier	Volumetric rate reference
Tier 3	Premium products	R_3
Tier 2	Semi-premium products	R_2
Tier 1	Economy products	R_1

DSICA notes that Treasury Wine Estates supports a three-tiered volumetric wine taxation structure, however rather than defining the respective tiers by wholesale sales price (as DSICA has proposed), it encourages the use of tiers on the basis of alcohol content.[73] In its submission to the Tax Forum, Treasury Wine Estates notes that this approach is preferable as it would obviate the need for testing of each batch and the application of potentially multiple tax rates.[74] DSICA notes that the wholesale sales price-based tiering approach it proposes may be refined and refer to some other criteria to be developed, rather than wholesale sales price points. DSICA would welcome the opportunity to work with the Government and wine industry representatives to identify the most appropriate criteria by which to define the proposed tiers.

Step three – identify the volumetric taxation rate applicable to each tier

This stage involves identification of the volumetric taxation rate for each of the three tiers. The rates would ideally be on a per litre of alcohol basis (i.e. not per litre, as is widely used in Europe).

For present purposes, these volumetric rates will be referred to as R_1, R_2 and R_3. The rates for the tiers could be selected/adjusted to achieve varying economic, social, industry or other objectives.

Economy tier

A volumetric rate would be introduced for the economy tier. The setting of this rate (R_1) would effectively set the minimum price of alcohol in Australia.

The volumetric rate for the economy tier could be initially set at a level that resulted in no immediate change in cask wine prices.

This builds on work undertaken by the Treasury team supporting the Henry Review panel, which developed a series of options to transition all alcohol beverages to a single volumetric excise duty rate. The transition options developed by Treasury contained a number of variable elements, including differing:

- initial volumetric wine taxation rates; and
- transition periods (i.e. long-term and short-term transition options).

Costing Option 1 developed by the Treasury team proposed an initial volumetric wine taxation rate of $7.03 per LPA and required a 15-year transition period.[75] DSICA contends that this may be used as a basis on which to identify an appropriate economy tier volumetric wine taxation rate which would be subject to accelerated indexation (discussed in greater detail in step four below).

Semi-premium tier

The products falling within the second price tier (i.e. semi-premium products) would be subject to a volumetric rate (R_2) which would be subject to twice-yearly indexation in accordance with CPI movements (as is current practice with excisable alcohol products – beer, spirits and RTDs).

The appropriate rate to be selected for the semi-premium tier is the weighted average effective volumetric duty rate, calculated by:

[73] Treasury Wine Estates, above n 42, 4.
[74] Ibid.
[75] The Treasury, *Costing Minute: AFTS Proposal – Alcohol Tax Reform* (The Treasury, 2010).

- converting the WET payable on each product falling within the semi-premium tier to an equivalent volumetric duty rate; then
- using market volume data, identifying the weighted average volumetric duty rate across all products within the semi-premium tier.

Premium tier

The rate in the premium products tier could be set to minimise price falls of expensive super-premium bottled wine. This could counter one oft-cited argument against a shift to a volumetric wine tax, which is that *'Grange will fall in price under a volumetric wine tax'.*[76]

Transition options for the tax rate in the premium tier include:

- retain the existing ad valorem rate of 29 per cent (for a period); or
- select a proposed volumetric rate (R_3) which would ensure no price change for a target premium bottle of wine of a selected retail price. The rate would be the weighted average volumetric duty rate for all products in the premium tier (calculated using the methodology outlined in the semi-premium tier earlier) and would be subject to twice-yearly indexation in accordance with CPI movements.

Step four – ensure revenue neutrality

In setting the relevant volumetric duty rates for each tier, it will be necessary to ensure that the amount of wine taxation collected in Year 1 of the reform will be no greater than existing WET collections. The three volumetric excise duty rates, in the aggregate, need to be set at appropriate, revenue-neutral levels.

Step five – accelerate the indexation factor applied to the economy tier

In order to gradually increase the tax paid by products in the economy tier, an accelerated indexation factor would be applied to the volumetric rate selected for this tier. This would allow for convergence to a common rate with the semi-premium tier over a phase-in period. The use of accelerated indexation draws on a key feature outlined by the Henry Review team in its Costing Minute which used accelerated indexation to achieve convergence of volumetric rates at different starting positions.

As the most significant tax differential is seen in the economy (i.e. economy/cask wine products) market, the primary aim of this proposal is to gradually increase the tax paid by this market segment. Hence, it is proposed that the indexation factor applied to rate R_1 for the economy price tier could be accelerated to have the effect of increasing the effective minimum floor price (for low-value wine) over time.

Concept overview

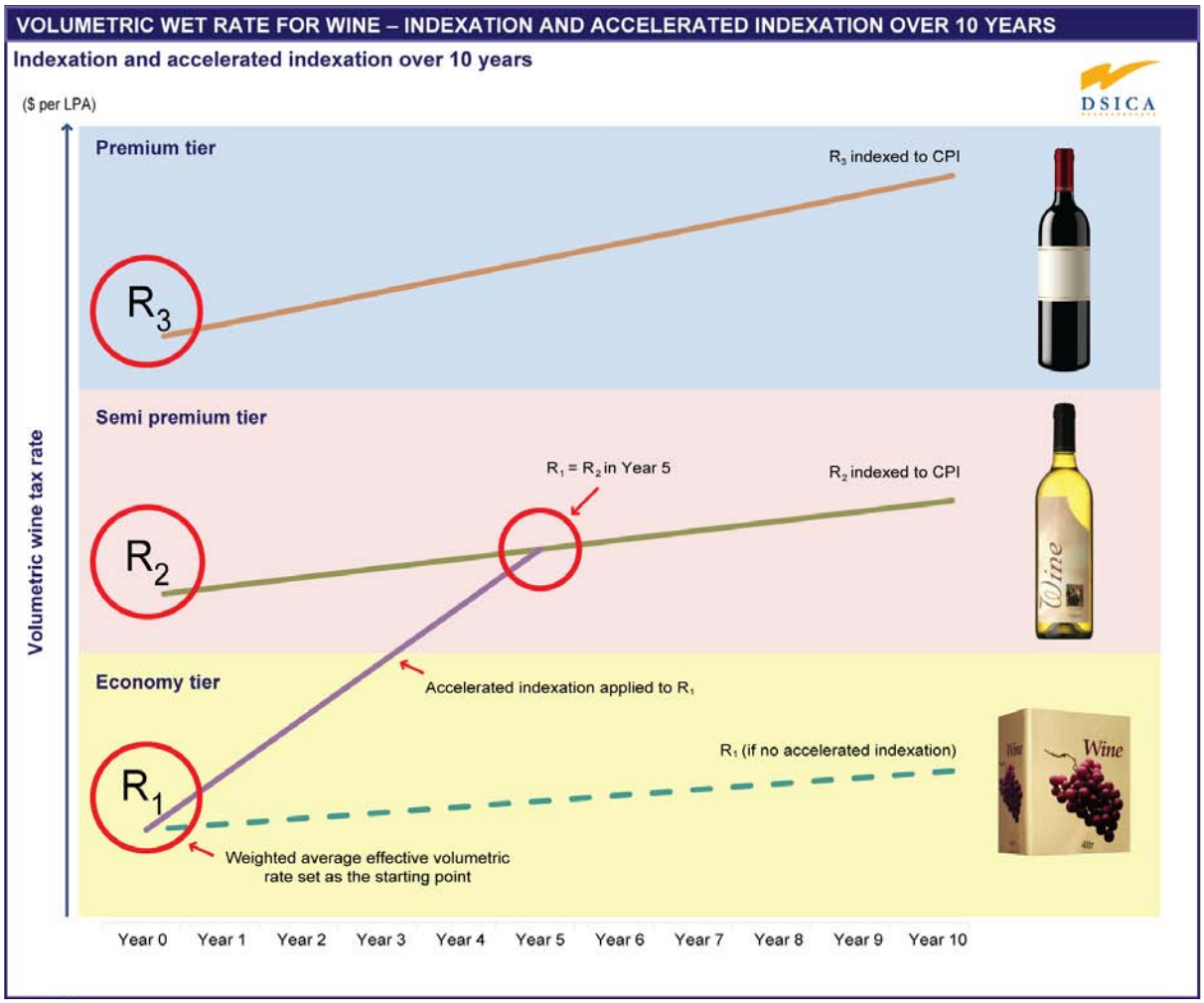
The operation of the concept and the five stages described is outlined in Figure 6-11. It is pertinent to note the following:

- in order to reduce the taxation distortions between cheaper wine products (i.e. those in the economy tier), the indexation factor applied to the volumetric rate for these products (R_1) could be accelerated. The acceleration factor could be defined by a known variable such as growth in Gross Domestic Product (GDP);[77]
- due to the accelerated indexation factor applying to R_1, it is inevitable that R_1 will eventually converge with R_2. At this point of convergence, the accelerated indexation will cease to apply to R_1, and this rate will be subject to normal indexation on the basis of the CPI;

[76] Peter Martin 'It's shaping up to be a great year for Grange' *The Sydney Morning Herald* (Online), 1 May 2010 <http://www.smh.com.au/national/its-shaping-up-to-be-a-great-year-for-grange-20100430-tzaj.html>.
[77] Note that at present, GDP is growing at a faster rate than the CPI.

- the acceleration of the R_1 rate is demonstrated by the purple line. To simplify the analysis, the graphic demonstrates rates R_1 and R_2 converging at year five. This timeframe could be changed to accommodate preferred transitional arrangements; and
- later convergence to a single volumetric wine rate could then be designed.

Figure 6-11: DSICA's proposal for transitioning to a volumetric wine taxation regime



Copyright DSICA 2013

Source: DSICA Pre-Budget Submission 2013-14

Advantages of this reform proposal

DSICA's volumetric wine taxation reform proposal has a number of advantages, namely:

- maintenance of the WET structure, which minimises winemaker resistance in moving to an excise regime and avoids the introduction of complex administrative requirements (e.g. bonded warehouses) that may be difficult for small winemakers to implement;
- allows for possible retention of a revised Wine Producer Rebate (if desired), providing assistance for legitimate small wine producers;
- use of a transition period and accelerated indexation which allows for a gradual increase in the tax rate applying to products in the economy tier and prevents any 'price shocks';
- use of multiple taxation tiers which account for the different segments of the wine market;

- creation of a wholly volumetric alcohol taxation regime, which creates an effective minimum floor price for alcohol beverages – without the introduction of a separate statutory minimum pricing regime;
- use of a volumetric tax which helps facilitate health and social policy objectives, promoting responsible consumption decisions; and
- use of a volumetric tax (as opposed to an ad valorem regime), which removes existing incentives in the tax system for the production of low-value wine. This allows the Australian wine industry to focus on its stated strategy of enhancing and developing the premium wine market segment.

Recommendation 5: Reform of the Wine Equalisation Tax to a volumetric taxation regime

That the Government pursue wine taxation reform using the five-step process devised by DSICA as a transition step to achieving the long-term goal of a fully volumetric taxation regime for all alcohol beverages.

7 Reform of Ready-to-Drink product taxation

Despite a stable trend in alcohol consumption and acknowledgement that the majority of Australians consume alcohol in a responsible manner, the Australian Government raised the excise duty payable on RTDs from $39.36 per LPA (the excise duty rate applying to full-strength packaged beer products) to $66.67 per LPA (the excise duty rate applying to full-strength bottled spirits products) on 27 April 2008 – an increase of 70 per cent. As a result of this decision, RTD products now pay 97 cents per standard drink (as at 1 February 2013) – approximately 2.25 times that paid by full-strength packaged beer products of equivalent alcohol content.

It should be noted that the pre-April 2008 tax differential between RTDs and spirits was neither an anomaly nor an unintended feature of the alcohol tax system. This differential resulted from a deliberate policy decision, implemented in July 2000, to tax RTDs at a similar rate as packaged beer. The policy rationale was that beer and RTDs are of similar strengths, are marketed to consumers in similar ways, and are substitutes, competing for the same consumer demographic.

The Government's decision was implemented on 27 April 2008, despite the fact that there was no reliable evidence demonstrating that RTDs are disproportionately linked with risky and high-risk drinking behaviours. In the time that has elapsed since the tax increase, evidence demonstrates that the RTD tax increase has not been effective in reducing harmful drinking levels. Given this, DSICA contends that reform of the RTD excise duty rate to that applying to full-strength packaged beer products presents a logical, evidence-based tax reform option.

7.1 Failure of the Ready-to-Drink product tax increase

In the time following introduction of the RTD tax increase, pre- and post-tax increase data from a variety of credible sources has clearly demonstrated the lack of effectiveness of the tax in reducing alcohol-related harms, total alcohol consumption and risky and high-risk drinking behaviours. The evidence demonstrating this was outlined in DSICA's 2012-13 Pre-Budget Submission and notes that:

- neither the Henry Review nor the National Drug Strategy Household Survey provide any evidence demonstrating that RTD products are disproportionately linked with risky and high-risk drinking behaviours, especially amongst young people;
- available alcohol consumption data from the ABS (as supplemented with industry statistics relating to cider product consumption) indicates that while adult *per capita alcohol consumption* (in LPAs) fell consecutively between 2007-08 and 2010-11, *total alcohol consumption* between 2007-08 and 2008-09 increased. In particular, the decrease seen in total RTD consumption was offset by increases in total consumption of beer, wine, spirits and cider products; and
- longitudinal studies of alcohol-related hospitalisations demonstrate that that the proportion of alcohol-related Emergency Department presentations for young people did not fall significantly following introduction of the RTD tax increase.

Given this, there is no credible evidence to demonstrate that the RTD tax increase has achieved its desired health and social policy objectives.

7.2 The preferred benchmark rate for Ready-to-Drink products

DSICA's contention that the RTD product excise duty rate ought to be reformed to the full-strength packaged beer rate is in accordance with the view expressed in the Treasury's annual *Tax Expenditures Statement*. Indeed, the Treasury identifies the additional revenue gained through the RTD product excise duty increase as a negative tax expenditure – with the benchmark excise duty rate for RTD products as that applying to full-strength packaged beer, as outlined in Figure 7-1.

Figure 7-1: Negative tax expenditure – increased rate of excise levied on RTDs

($ millions)	2013-14	2014-15	2015-16
Increased rate of excise levied on RTDs	- 570	- 595	- 625

Source: The Treasury, Tax Expenditures Statement 2012 (Australian Government, 2013) 182

7.3 Cost of facilitating tax equivalence

Without undertaking detailed economic modelling, the expected revenue cost (or gain) to government from reducing the RTD excise duty rate to that applying to full-strength packaged beer is difficult to ascertain. Whilst the negative tax expenditure figures outlined in Figure 7-1 outline the revenue gain to government from the increased excise duty rate applying to RTDs, they do not necessarily correlate to anticipated revenue losses from this proposed taxation change and associated market dynamics (including substitution into other beverage categories). As such, the estimated revenue impact of this taxation change is unquantified at the present time.

Recommendation 6: Taxation of Ready-to-Drink products at the excise duty rate applying to full-strength packaged beer

That the Government amend the current RTD excise duty rate to that applying to full-strength packaged beer products.

Estimated revenue impact: Unquantified

8 A single volumetric excise duty rate for all alcohol beverages

Upon commencement of transition to a volumetric tax for wine products, DSICA supports the freezing of indexation of the spirits and RTD excise duty rates as a means of transitioning to a wholly volumetric alcohol taxation regime.

DSICA notes that in transitioning to a wholly volumetric tax regime for all alcohol products, as recommended by the Henry Review, a freeze on bi-annual indexation of the highest excise duty rates is recommended by the Treasury to be used as a method to achieve gradual convergence of all excise duty rates. This analysis has been undertaken by the Treasury while supporting the Henry Review panel in formulating their final recommendations. In undertaking this analysis, the Treasury analysed the revenue impacts of replacing 'current excises on beer and spirits, and Wine Equalisation Tax, with a common alcohol tax based on alcohol content, set by reference to the net social costs of alcohol consumption and taxation, with a low-alcohol threshold for all products'.[78]

DSICA supports the transition methodology developed by the Henry Review and proposes that it is used following the introduction of a volumetric wine tax regime to facilitate convergence to a single volumetric rate for all alcohol beverages.

The Treasury's analysis indicated that rates could converge via the existing indexation arrangements for the volumetric excise duty rates currently applying to spirits, RTDs and beer in the following manner:

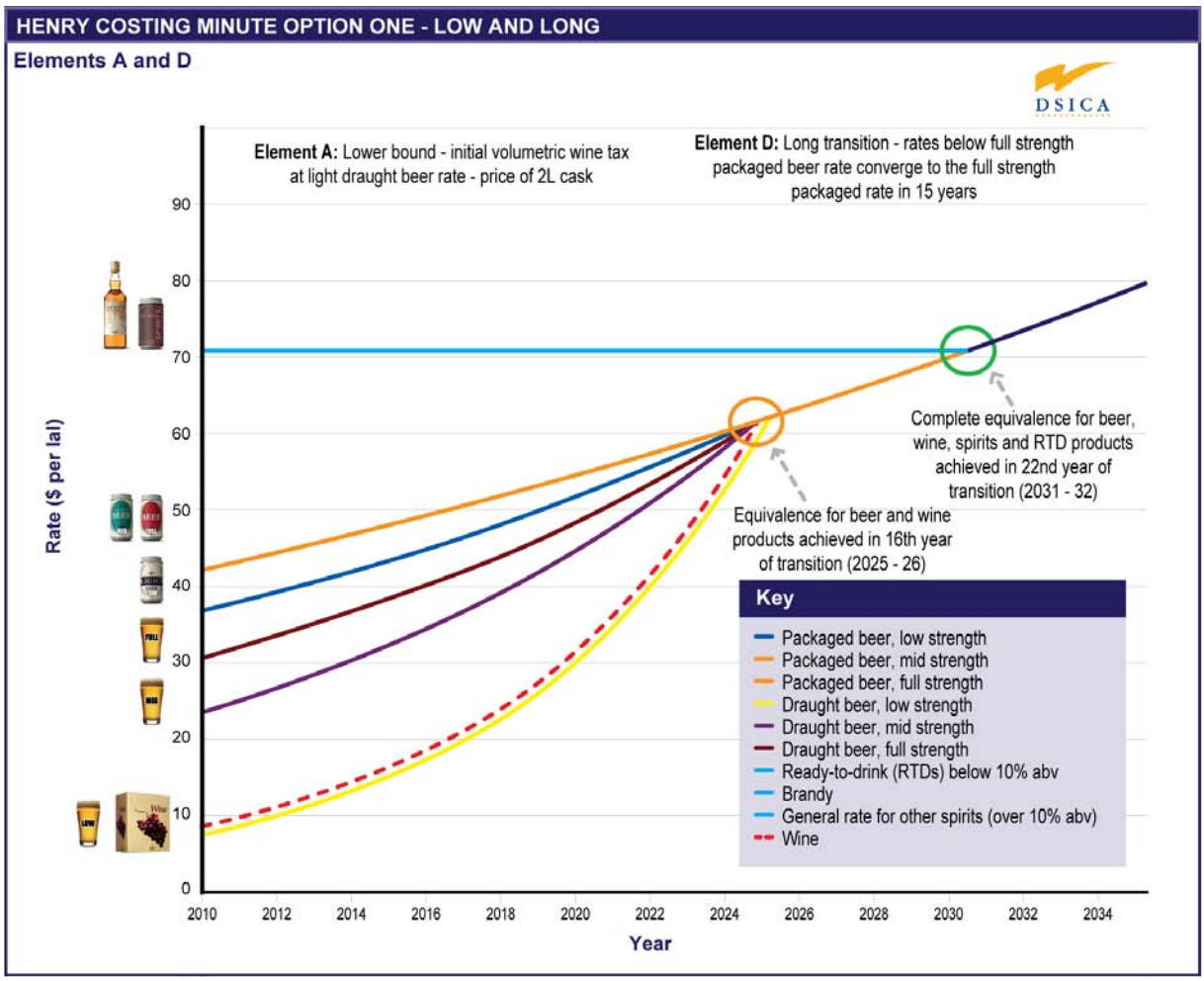
- bi-annual indexation increases of the full-strength packaged beer excise duty rate in line with movements in the CPI would continue;
- bi-annual indexation increases of all excise duty rates below the full-strength packaged beer excise duty rate would be accelerated so that they would converge with the full-strength packaged beer excise duty rate within a certain number of years (NB this includes the new volumetric rate for wine); and
- freezing of indexation increases of the spirits (and RTD) excise duty rates until such time as the full-strength packaged beer excise duty rate converges to be equivalent to the spirits excise duty rate. Using the Treasury's assumption of 2.5 per cent per annum inflation, the spirits excise duty rate would be suspended/frozen for approximately 21 years.[79]

An example of the Treasury methodology is outlined in Figure 8-1. Key features of this graphic are as follows:

- **step 1:** automatic indexation of the spirits excise duty rate is suspended/frozen and after 15 years, all wine and beer products will be taxed at a single rate (equivalent to the full-strength packaged beer rate);
- **step 2:** the full-strength packaged beer excise duty rate converges to the spirits excise duty rate; and
- **step 3:** indexation of the final converged rate recommences on a bi-annual basis, including for spirits and RTDs.

[78] The Treasury, above n 75.
[79] Ibid.

Figure 8-1: Henry Review transition to a single volumetric duty rate for all alcohol products (Option One – low and long)



Copyright DSICA 2011 *Source: DSICA Pre-Budget Submission 2011-12*

Recommendation 7: Freezing of statutory indexation of excise duty rates to facilitate transition to a wholly volumetric alcohol taxation regime

That the Government commit to freeze automatic (statutory) indexation of the spirits and RTD excise duty rates as a means of facilitating the transition to a single volumetric rate for all alcohol products, as recommended by the Henry Review.

International trade liberalisation

International trade liberalisation

Progressive trade reform and liberalisation, including the reduction and ultimate elimination of tariff and non-tariff barriers to trade, delivers overall economic benefits to consumers, governments and industry. DSICA strongly supports international trade policy reforms which open the Australian economy to greater competition, encourage innovation and efficiency amongst domestic businesses and enable consumers to experience a greater range of imported goods. It is through ongoing dialogue with our trading partners and developing a non-discriminatory, transparent and progressive trade and economic reform policy that Australia is able to enhance its import and export opportunities delivering widespread benefits.

DSICA actively advocates for progressive trade reform and liberalisation throughout the world, and has a key focus on:

- removal of the five per cent ad valorem customs duty on imported spirits and RTDs;
- inclusion of alcohol products in FTA negotiations;
- improved lot identification code protections; and
- improved Rules of Origin criteria and requirements in FTA negotiations.

Each of these issues is discussed in turn.

9 Removal of the five per cent nuisance customs duty on imported spirits and Ready-to-Drink products

This chapter outlines DSICA's reasons for seeking removal of the five per cent ad valorem nuisance customs duty applied to imported spirits and RTDs, namely:

- it is an inefficient, discriminatory and distortionary method of taxation for which there is no justifiable taxation or health policy rationale;
- there is no longer any sector of the domestic spirits industry in Australia which needs protection from imported spirits and RTDs;
- collection of the five per cent ad valorem duty imposes a significant administrative burden on the industry; and
- the duty has no effect other than causing Australian consumers to pay higher prices for imported spirits and RTDs than they otherwise should.

9.1 Operation of the customs duty

Imported spirits and RTDs are currently subject to a five per cent ad valorem customs duty (the duty) where imported from countries other than countries with which Australia has a preferential trade agreement. In addition to this 'protective' customs duty, a volumetric excise-equivalent customs duty of $76.37 per LPA (as at 1 February 2013) applies to imported spirits and RTDs, whilst domestically produced spirits and RTDs are subject to an excise duty of $76.37 per LPA only.[80] This volumetric component ensures equivalent taxation treatment of all spirits and RTDs consumed in Australia (whether imported or locally produced).

The five per cent duty applies on a customs value basis, and thus applies unequally to spirits with the same alcohol content and as such it is an inefficient, discriminatory and distortionary method of taxation. While the duty affects all imported spirits and RTDs originating in countries with which Australia does not have a preferential trade agreement, it has a significant impact on products of European origin, including brandy/cognac from France, liqueurs from Germany, aperitifs from Italy and vodka from the Netherlands, Poland and Sweden. Despite this, the most pronounced distortionary impact is seen in the whisk(e)y market, as discussed in Section 9.2 below.[81]

9.2 Whisk(e)y import statistics (2011-12)

A review of whisk(e)y import figures reveals significant discrimination between products imported from the United States, and those from other countries of origin.

As demonstrated in Figure 9-1, whisk(e)y products imported from Scotland, Ireland, Japan and Canada represent approximately 54 per cent of all whisk(e)y and bourbon products imported into Australia, with Scotch Whisky products comprising some 48 per cent. Meanwhile, 46 per cent of the imported whisk(e)y category originates from the United States of America (i.e. bourbon products).

[80] Note that there is a concessional rate of $71.31 per LPA (as at 1 February 2013) applying to brandy products.
[81] Note that the term 'whisk(e)y' is used to describe all possible products in this market segment. It includes Scotch Whisky, whisky products originating in Ireland and Japan and whiskey products (also termed bourbon) from the United States of America.

Figure 9-1: Summary of imports of whisk(e)y and bourbon products into Australia by country of origin (2011-12)

Country of origin	Imports (000s 9L cases)	Percentage of total imports
Scotland (i.e. Scotch Whisky)	1,609,094	48%
Ireland, Japan and Canada (i.e. Whiskey)	202,110	6%
United States of America (i.e. Bourbon)	1,524,272	46%
Total		100%

Source: Liquor Merchants Association of Australia (LMAA) Database (Domestic Market; July 2011-June 2012; Industry figures converted to 100 per cent) and DSICA; bulk spirits imported for manufacture of beverages not exceeding ten per cent abv are assumed to be imported at 80 per cent abv.

As a result of the *Australia-United States Free Trade Agreement*, 54 per cent of whisk(e)y products are subject to a five per cent customs duty discrimination, while 46 per cent of these products (i.e. bourbon imported from the United States) are free from this duty.

9.3 DSICA's policy position on the customs duty applied to imported spirits and Ready-to-Drink products

DSICA seeks immediate removal of the five per cent ad valorem customs duty on all spirits and RTDs imported into Australia. This position is supported by:

- The **World Trade Organization (WTO),** which has consistently recommended removal of protective tariffs which hinder market access for exporters and inhibit free trade and competition;[82]
- The **Henry Review,** which proposed the immediate removal of the five per cent ad valorem customs tariff on imported spirits, RTDs and wine in order to remove structural complexity from the current alcohol taxation system;[83] and
- The **Productivity Commission,** which in its report *Bilateral and Regional Trade Agreements* noted that unilateral reform (such as the removal of this duty) is the most direct means of reducing Australia's trade and investment barriers.[84] Immediate removal of the five per cent ad valorem customs duty would be an ideal example of such a unilateral reform.

In addition to the duty anomaly which favours United States-sourced spirits, DSICA has advocated total removal of the five per cent ad valorem customs duty on the following grounds:

- **Discriminatory effect:** As the duty is calculated on a customs value basis, it applies unequally to products with the same alcohol content and, as such, is an inefficient, discriminatory and distortionary method of taxation.
- **Little/no significant domestic spirits production:** With changing trends, there is no domestic spirits industry in Australia which justifies protection from overseas competition.
- **Administrative costs:** There are significant administrative costs to business of paying the five per cent ad valorem component, especially in the case of bulk imported spirits used in the manufacture of RTD beverages in Australia. As outlined in Chapter 14, payment of the five per cent customs duty on the bulk RTD spirit is made to the Australian Customs and Border Protection Service (Customs). At the appropriate time, after manufacture of the RTDs, payment of the volumetric duty component (as excise duty) is made to the ATO. Dealing with, and making duty payments to two separate agencies creates significant administrative issues for producers.

[82] World Trade Organization, *Doha Ministerial Declaration (The Doha Mandate)* (World Trade Organization, 2001) [16], [31].
[83] Henry et. al., above n 10, 443.
[84] Productivity Commission, *Productivity Commission Research Report: Bilateral and Regional Trade Agreements* (Australian Government, 2010) 213.

The abolition of the five per cent customs duty would significantly simplify the administrative burdens imposed on DSICA members.

- **Increased retail prices for consumers:** The five per cent customs duty is generally 'absorbed' into a product's cost base which is used as a basis for determining wholesale, and ultimately, retail prices. Accordingly, margins and GST are calculated on the 'duty inclusive' price paid by an importer. This import cost 'flow through' effect magnifies the impact of the duty component in the final retail price paid by the Australian consumer.

9.4 Australian Government trade policy statement

DSICA draws attention to the Government's publicly-stated principle of unilateralism in trade policy in advocating the removal of the five per cent ad valorem customs duty on all full-strength spirits and RTDs imported into Australia. Australia's trade policy is currently driven by ongoing productivity-focused domestic reform coupled with the negotiation of improved access for exporters to overseas markets. The Government's trade policy statement is framed around the principle that trade policy is an indivisible part of overall economic reform and is facilitated by unilateralism, non-discrimination, separation and transparency. Under this principle:

> *'Adopting a bargaining-chip approach of refusing to liberalise at home unless other countries offer trade barrier reductions as a quid pro quo only damages the home country's long-term prosperity. Using domestic reform as a bargaining chip in negotiations is akin to an athlete refusing to get fit for an event unless and until other competitors also agree to get fit.'*[85]

Removal of the five per cent ad valorem customs duty would be an example of unilateral reform which would remove discrimination in the current customs tariff regime.

9.5 Cost of removing the duty

Based on information contained in the detailed Henry Review Costing Minute, DSICA estimates the cost to revenue of immediate removal of the five per cent ad valorem customs duty would be approximately $88 million over the forward estimates.[86]

A full breakdown of the forecast costs from the removal of the five per cent ad valorem customs duty for the 2013-14 to 2016-17 period is provided in Figure 9-2.

Figure 9-2: Forecast costs from the removal of the five per cent ad valorem customs duty (2013-14 to 2016-17)

($ million)	2013-14	2014-15	2015-16	2016-17	2013-14 to 2016-17
Removal of five per cent ad valorem customs duty	19	21	23	25	88

Source: The Treasury, Costing Minute: AFTS Proposal – Alcohol Tax Reform (The Treasury, 2010).

This cost could be funded from other reforms, including cost savings derived through reforms suggested earlier, including taxing traditional cider products at the RTD excise duty rate.

Recommendation 8: Removal of five per cent ad valorem customs duty

That the Government immediately remove the five per cent nuisance customs duty on imported spirits and RTDs in order to remove structural complexity from the current alcohol taxation regime.

Estimated revenue impact: $88 million cost over the forward estimates

[85] Department of Foreign Affairs and Trade, *Gillard Government Trade Policy Statement: Trading our way to more jobs and prosperity* (Australian Government, 2011) 7.
[86] The Treasury, above n 75.

10 Inclusion of alcohol products in Free Trade Agreement negotiations

DSICA acknowledges and is strongly supportive of the Australian Government's commitment to pursuing FTA negotiations which eliminate or at least substantially reduce barriers to trade and investment.[87] DSICA actively engages with the Department of Foreign Affairs and Trade and other key stakeholders to pursue opportunities to eliminate import tariffs on alcohol beverages and their inputs. This facilitates market growth and fosters a free-flowing trade environment which:

- increases the availability and affordability of high-quality alcohol beverages;
- discourages trade in illicit goods;
- restrains prices charged to consumers for the consumption of imported products;
- encourages healthy competition within the market; and
- positions countries as attractive destinations for foreign investment and trade.

In light of these objectives, DSICA supports measures in FTA negotiations which reduce and eliminate import tariffs on distilled spirits products and their inputs, as discussed below.

10.1 Proposed tariff reduction and elimination commitments

DSICA strongly encourages the Australian Government to pursue elimination of import tariffs on distilled spirits products, and liberalisation of import tariffs on primary materials and inputs to maximise sourcing flexibilities, as demonstrated in Figure 10-1.

Figure 10-1: Preferred DSICA tariff reduction commitments for spirits products and inputs

Product/input	Harmonised System classification	Preferred DSICA position
Distilled spirits	2208	Elimination
Glass bottles	7010.90	Elimination, or, at the least, significant liberalisation
Closures	3923.50	Elimination, or, at the least, significant liberalisation
Labels	4821.10	Elimination, or, at the least, significant liberalisation
Bulk ethyl alcohol	2207.10	Elimination, or, at the least, significant liberalisation

DSICA's preferred approach maximises the trade benefits available to negotiating parties, and is consistent with a key pillar of the Gillard Government's trade policy, which notes that trade agreements 'must be genuinely liberalising, eliminating or substantially reducing barriers to trade'.[88]

Recommendation 9: Elimination of tariffs applied to distilled spirit products and their inputs

That the Australian Government seek elimination (or, if not possible, substantial reduction) of import tariffs on distilled spirits products (HS 2208) and their inputs in each FTA under negotiation.

[87] Department of Foreign Affairs and Trade, *Trans-Pacific Partnership Agreement negotiations* <http://www.dfat.gov.au/fta/tpp/>.
[88] Department of Foreign Affairs and Trade, above n 85, 9.

11 Improved lot identification code protections

Lot identification codes play a significant role in assisting to track products through the supply chain, particularly in the event of a safety-related problem and the need to invoke a product recall. A number of international jurisdictions including the EU, Canada and the United States have introduced traceability requirements into their product safety frameworks in recognition of the impact these have on recall effectiveness. These traceability requirements include tracing systems and record keeping and are strongly supported by DSICA and its counterparts: the Distilled Spirits Council of the United States (DISCUS) and the Distilled Spirits Association of New Zealand (DSANZ).

In contrast to these developments internationally, there is no Australian statutory consumer product safety requirement for suppliers to keep information relating to the movement of consumer goods through the supply chain. This is a significant problem as:

- there is an increasing trend for some products to be decoded prior to importation, distribution or sale, despite the fact that there is no legitimate reason to do so;[89] and
- if there is no ability to trace products, product recalls may involve an entire product range. A full product recall can have a significant impact on consumers, manufacturers and distributors, who may suffer greater inconvenience, financial burden, brand and corporate damage than would otherwise be incurred through a targeted recall.[90]

As recognised by the Australian Competition and Consumer Commission (ACCC), this inhibits the ability for manufacturers, suppliers, retailers and others in the supply chain to facilitate targeted, effective and timely product recalls and enable consumer protection from unsafe goods.[91] This is a significant issue for the Australian alcohol beverage industry, which seeks to uphold high standards of product quality and integrity.

Free Trade Agreement negotiations provide an unparalleled opportunity to improve lot identification code protection provisions, both in Australia and internationally. The inclusion of lot identification code protections (and penalties for breaches) assists importers and exporters to ensure that their products are genuine and can be easily tracked throughout the supply chain, enhancing consumer confidence and food safety.

11.1 The legislative framework for lot identification codes in Australia

Australia is a member of Codex Alimentarius, the international body responsible for developing international food standards, guidelines and codes of practice which contribute to the safety, quality and fairness of international food trade. As a Codex member, Australia is a party to the *Codex Alimentarius General Standard for the Labelling of Prepackaged Foods,* Standard 4.6 of which relevantly provides that:

> *'Each container shall be embossed or otherwise permanently marked in code or in clear to identify the producing factory and the lot.'*[92]

As a Codex member, Australia embodies this standard in the *Australia New Zealand Food Standards Code* (the Code) Standard 1.2.2(2), which provides:

> *'The label on a package of food must include its lot identification, unless the food is:*

[89] 'Decoding' refers to the intentional removal, alteration or substitution of a lot identification code from a product to limit its ability to be traced in the market. The process of decoding may be done offshore or in Australia.
[90] The Allen Consulting Group, *Overview of issues associated with removal of batch codes* (The Allen Consulting Group, 2012) 2.
[91] Australian Competition and Consumer Commission, *Review of the Australian product safety recalls system* (Australian Government, 2010) 49.
[92] CODEX Stan 1-1985 *General Standard for the Labelling of Prepackaged Foods* (Amended 2010) s 4.6.

an individual portion of ice cream or ice confection; or

in small packages, and the bulk packages and the bulk container in which the food is stored or displayed for sale includes lot identification.'

In Australia, enforcement and monitoring of lot identification codes whilst in the control of Customs is a federal matter. However, enforcement and monitoring of compliance with the Code is the responsibility of relevant authorities in each individual state and territory (e.g. New South Wales Food Authority, Department of Health, Victoria). As such, the penalties for non-compliance in Australia vary and include:

- **Interference while in Customs' control is prohibited:** It is a punishable offence to interfere with lot identification codes on imported goods while the goods are subject to Customs control without requisite authorisation.[93] The penalties imposed for this offence apply regardless of whether the interference is either deliberate or unintentional.[94]
- **Resale of goods where lot identification codes have been removed is prohibited:** Provisions in Victorian state legislation prohibit the sale (by any retailer) or advertising of food that is packaged or labelled in a manner that contravenes the Code, and imposes a penalty of up to $40,000 on an individual and up to $200,000 on corporations if such a practice takes place.[95] As Standard 1.2.2(2) of the Code imposes requirements relating to the inclusion of lot codes on food packaging, the sale of alcohol products which have had their lot codes removed or defaced would arguably be in contravention of this provision.[96]
- **Lot identification code tampering is prohibited:** The *Food Standards Australia New Zealand Interpretative Guidance: Standard 1.2.2 – Food identification requirements (Lot identification)* provides that *'where a food manufacturer includes lot identification on the label on a package of food, that lot identification code cannot be altered, removed, replaced, erased or obscured by any person (except under specified circumstances)'*.[97] As such, tampering with a lot identification code would arguably be in contravention of this provision.

11.2 DSICA's proposal for lot identification code protections

DSICA is aware that a number of FTAs currently under negotiation are reported to include lot identification code provisions relating to:

- the ability of suppliers to place lot identification codes on containers; and
- the imposition of mandatory penalties for the removal or deliberate defacement of lot identification codes.

DSICA strongly supports inclusion of these provisions in the Technical Barriers to Trade (TBT) chapters of FTAs currently under negotiation.

Despite the encouraging progress made with existing proposals, DSICA recognises existing provisions could be enhanced to provide further protection to Australian distilled spirits producers and exporters. Most notably, proposed penalty provisions may be extended to prohibit the sale of products with tampered or defaced lot identification codes. To this end, DSICA supports the inclusion of stronger provisions which would:

[93] *Customs Act 1901* (Cth) s 33.
[94] See, for example, *Customs Act 1901* (Cth) s 33.
[95] *Food Act 1984* (Vic) s 16(3).
[96] Note that as monitoring of compliance with and enforcement of the *Australia New Zealand Food Standards Code* is undertaken at a state/territory level, the Victorian example has been provided in this instance. Further research and analysis is necessary to assess the manner in which compliance with and enforcement of the *Australia New Zealand Food Standards Code* is undertaken in other states and territories.
[97] Food Standards Australia New Zealand, *Interpretative Guidance: Standard 1.2.2 – Food identification requirements (Lot identification),* 2 February 2012, 3.1.

- prohibit the sale of imported distilled spirits containers with erased or tampered lot identification codes; and
- introduce penalties for the sale of any imported distilled spirits and wine products with lot identification codes that have been erased or tampered. Such penalties may be imposed at any point of sale through the supply chain (e.g. on retailers, importers or distributors – rather than suppliers only) as this will deter businesses from supplying consumers with alcohol products with erased or defaced lot identification codes.

As some existing Australian state and territory legislation includes provisions prohibiting the sale of alcohol products without lot identification codes or with lot identification codes which have been defaced, the inclusion of such provisions within the TBT provisions of future FTA negotiations presents no increased administrative burden on government or more onerous requirements on producers, importers, wholesalers or retailers in Australia. In addition to this, and arguably more importantly, DSICA notes that the inclusion of these provisions will:

- deter parallel importers from removing or deliberately defacing lot identification codes;
- further enhance protections to consumer health and safety;
- preserve product integrity and reputation;
- enable easy product traceability – particularly in identifying and tracking parallel import products that have entered the Australian market; and
- allow more targeted and effective product recalls.

This will also assist in giving effect to a number of recommendations contained in the Independent Review of Food Labelling Law and Policy final report *Labelling Logic,* particularly recommendations 57 and 59 in which the Panel respectively recommended:

> *'That monitoring and enforcement of food labelling requirements of the Food Standards Code (accuracy as well as the presence of labelling information) be considered equally important as other aspects of the Food Standards Code and the responsible agencies be given the appropriate level of resources to meet their obligations.'*[98]
> *'That consumer protection concerns related to food labelling be accorded a high priority by the relevant consumer protection agencies (Australian Competition and Consumer Commission, New Zealand Commerce Commission, and State and Territory consumer protection agencies) and complaints be processed and resolved in a timely and transparent manner.'*[99]

DSICA and its members seek to uphold the Australian spirits industry's high level of beverage production standards and ensure the protection of consumer health and safety in a more open trading environment. In acknowledging these objectives, DSICA strongly supports stronger and more effective lot identification code enforcements than those currently under consideration.

[98] Neal Blewett AC et. al., *Labelling Logic: Review of Food Labelling Law and Policy (2011)* (Australian Government, 2011) 14.
[99] Ibid.

Recommendation 10: Inclusion of lot identification code protection provisions and penalties in FTA negotiations

That the Australian Government propose the inclusion of provisions in TBT chapters to current and future FTAs under negotiation which:

- prohibit the sale of imported distilled spirits and wine products with erased or tampered lot identification codes; and
- penalise the sale of distilled spirits and wine products with erased or tampered lot identification codes, such that the penalties may be imposed at any point of sale through the supply chain.

12 Improved Rules of Origin criteria and requirements in Free Trade Agreement negotiations

DSICA acknowledges the importance of Rules of Origin criteria in determining the national source of a product and whether it can receive preferential tariff treatment under various FTAs. As FTA negotiations progress, there are significant opportunities to develop a uniform, transparent approach to the production and trade of distilled spirits between negotiating parties – particularly in the development of multilateral FTAs.

DSICA contends that there is a need to refine existing approaches to drafting Rules of Origin criteria to reflect contemporary practices observed by distilled spirits manufacturers and importers. To this end, DSICA notes that Rules of Origin criteria included in future FTAs should enable:

- importers and exporters to undertake specified transhipment activities in respect of traded goods whilst retaining eligibility for preferential tariff rates; and
- regional accumulation for products produced wholly from qualifying inputs sourced from a number of agreement parties.

Each of these issues is discussed in turn.

12.1 Provisions enabling specified transhipment activities

Traditionally, FTAs focus on the 'direct' shipment of goods between exporting and importing parties. Indeed, the current standard language used in Australian, Canadian, Mexican and United States FTAs does not permit transhipment or any processing or manipulation of exports in third countries before arrival in the importing country, other than loading and offloading of a vessel.

The position used in earlier FTAs described above is no longer reflective of current practices concerning the transhipment of goods. Nowadays, many products are transhipped through intermediary states (i.e. regional hubs) where, for example, load consolidation occurs and market-specific labelling and packaging is applied. In such cases, no transformation or processing of the goods occurs, however they can (and often do) move outside of local intermediary state customs control, thus losing their 'direct' status.

DSICA contends that the Rules of Origin criteria incorporated into future FTAs should allow qualifying goods to undergo these minor processes without losing their preferential treatment status. DSICA has developed draft clauses reflecting these requirements for perusal and consideration by trade negotiators (refer to Appendix D). Incorporation of this more flexible approach demonstrates greater alignment with contemporary business practices whilst still ensuring that necessary Regional Content Value and tariff classification requirements are observed.

Recommendation 11: Inclusion of transhipment provisions in future FTA Rules of Origin criteria

That the Australian Government seek to include provisions in future FTA Rules of Origin criteria which enable importers and exporters to undertake specified transhipment activities in respect of traded goods without the goods in question losing their preferential treatment status.

12.2 Regional accumulation for products produced wholly from qualifying inputs

In the age of increasing globalisation, it is not uncommon for multinational corporations to identify and implement cost-effective measures throughout the supply chain. Indeed, in the case of a Canadian whisky product, corn may be sourced from the United States, the bottle and metallic paint seen on the label from Mexico, the closure from Malaysia and the velvet bag it is presented in from Vietnam.

In the course of developing a modern FTA there is a need to recognise the interdependency of inputs into a single product.

DSICA contends that future FTAs should include, in their Rules of Origin criteria, provisions which allow for regional accumulation to enable products that are produced wholly from qualifying inputs (as outlined in Figure 10-1 earlier) sourced from a number of negotiating parties (in the case of multilateral FTAs) to qualify for the preferential treatment accorded by any of the other negotiating parties. Such an approach reflects the approach adopted by global companies in optimising value and efficiency opportunities in the production of their finished goods.

Recommendation 12: Inclusion of regional accumulation provision in multilateral FTA Rules of Origin criteria

That the Australian Government seek to include provisions in Rules of Origin criteria that allow for regional accumulation, enabling products that are produced wholly from qualifying inputs sourced from a number of negotiating parties to multilateral FTAs to qualify for the preferential treatment accorded by any of the other negotiating parties.

Alcohol taxation administration priorities

Alcohol taxation administration priorities

As the peak industry body representing over 80 per cent of Australia's distilled spirits importers and manufacturers, DSICA and its members are well aware of the administrative complexities and burdens borne by alcohol manufacturers and importers in Australia. Indeed, a majority of DSICA members have interests in both domestically manufactured goods (which are subject to excise duty), and imported goods (which are subject to excise equivalent customs duty and customs duty), compounding the financial, resourcing and time cost associated with alcohol manufacture and importation in Australia.

The existing alcohol taxation administration and regulatory systems in Australia are particularly burdensome on industry. The operation of multiple licensing regimes at state and territory level, multiple systems for taxing alcohol and dealing with several entities creates significant costs for business – both financially, and in terms of staff resourcing. The time and resources expended on complying with various regulatory and administrative requirements inhibits the continued growth and development of the Australian distilled spirits industry, at both a domestic and international level.

The Henry Review acknowledged the complexities faced by the Australian alcohol industry and made the following recommendation (Recommendation 72):

> *'The introduction of a common alcohol tax should be accompanied by a review of the administration of alcohol tax, to ensure that alcohol taxpayers do not face redundant compliance obligations.'*[100]

DSICA strongly supports this recommendation, and notes that under the previous *Better Regulation Ministerial Partnership,* responsibility for several key functions relating to warehoused Excise Equivalent Goods (EEGs) was transferred from Customs to the ATO on 1 July 2010. Under this arrangement:

- a number of DSICA members have been assigned a dedicated Client Relationship Manager to oversee their excise, GST and customs affairs;
- applications for licences and permissions (settlement and movement) for excisable goods and EEGs are assessed, processed and approved by the ATO;
- compliance activities for excisable goods and EEGs have been centralised within the one agency; and
- there have been reduced compliance costs and the development of a single point of contact for customs and excise obligations.

DSICA is strongly supportive of the single administration initiative, and acknowledges the highly collaborative, industry-inclusive manner in which the reforms were developed and implemented. However, it remains the case that not all responsibilities for the administration of EEGs have been transferred from Customs to the ATO. As such, while the administrative burden borne by DSICA's members has reduced following the single administration reforms, significant additional progress is required to further minimise the regulatory and compliance issues faced by Australian alcohol manufacturers and importers.

Throughout 2012, DSICA has been actively engaged in the *Excise Equivalent Goods Administration: Legislation and Policy Better Regulation Ministerial Partnership* consultation process, having made two submissions canvassing key reform opportunities and participating in industry consultation days. In participating in this collaborative process, DSICA has worked with the Treasury and other key stakeholders to identify four key reform opportunities:

- development of a new Act which covers all administrative matters relating to excisable goods and EEGs;

[100] Henry, above n 10, 442.

- removal of (or at the least, amendment of the administrative practices pertaining to) the five per cent ad valorem customs duty;
- introduction of monthly PSPs for larger businesses; and
- alignment of circumstances in which customs and excise duty refund permissions may be sought.

Each of these issues is discussed in turn.

13 Introduction of a new Administration Act

13.1 Reform opportunity

During the November 2012 consultation day with the Treasury and other key stakeholders in the EEG administration process, five potential reform options relating to the administration of EEGs were identified:

- **Reform Option 1:** development of a new Act which covers all administrative matters relating to excisable goods and EEGs;
- **Reform Option 2:** transferring EEGs into the excise system, although the manner in which this reform proposal may be undertaken is unclear;
- **Reform Option 3:** undertaking legislative reform to ensure both the *Excise Tariff Act 1921* (Cth) and the *Customs Tariff Act 1995* (Cth) are aligned in respect of EEGs and excisable goods;
- **Reform Option 4:** undertaking administrative changes wherever possible within existing legislative frameworks to further streamline and harmonise the administration processes relating to excisable goods and EEGs, with no legislative reforms occurring; and
- **Reform Option 5:** leave existing administrative arrangements pertaining to excisable goods and EEGs unchanged (i.e. maintain the status quo).

DSICA is strongly supportive of reform option one, and understands that under this reform option:

- a new Act relating to administration matters concerning excisable goods and EEGs would be developed; while
- Imposition Acts concerning excise duty and customs duty would remain separate, maintaining the separation between excise duty and customs duty mandated under the Constitution.[101]

DSICA strongly supports this reform option and notes that it is aligned to a number of the recommendations proposed in its earlier submission to the *Excise Equivalent Goods Administration: Legislation and Policy Better Regulation Ministerial Partnership* Consultation Paper. The 2013-14 Federal Budget presents an unparalleled opportunity to announce reforms to Australia's EEG administration process, most notably through measures to introduce a new administration Act.

In implementing this reform option, DSICA recommends that all revenue-related matters should be the sole responsibility of the ATO, while border protection issues should be the responsibility of Customs. In practice, this would result in:

- the ATO assuming full and sole responsibility for:
  - all revenue collection matters for both excisable goods and EEGs, including collections, remissions, drawbacks and refunds pertaining to excise duty, excise equivalent customs duty and (potentially) the relevant five per cent ad valorem customs duty;
  - all licensing and warehouse matters (including licence applications) for both excisable goods and EEGs;
  - all movement permissions, returns and settlement permissions for both excisable goods and EEGs;
  - all supervisions relating to the disposal of excisable goods and EEGs; and
  - all compliance and/or audit functions, including inspections.

[101] *Australian Constitution* s 55.

- Customs maintaining responsibility for all import, export and Integrated Cargo Support (ICS) transaction related inquiries with **no Customs interaction required for the administration of duties.** It is not envisaged that ATO representatives would be required at any border points, such as airports or cargo/shipping areas.

DSICA notes that a regime of this nature would help to further enable the observed evolution of the roles of each agency, whereby the ATO is the Government's principal revenue collection agency,[102] and Customs manages the security and integrity of Australia's borders.[103]

DSICA also recommends that, should this option be implemented, portfolio responsibility for the new Administration Act should rest with the Treasurer. This enables the ATO, being the Act's primary administrator, to provide input and guidance on the legislation as required.

This reform option is strongly supported by DSICA as it will:

- enable alcohol importers and manufacturers to deal with one single agency (i.e. the ATO) for all revenue matters, and one single agency (i.e. Customs) for all border protection issues. This would greatly simplify the volume of administrative transactions required and reduce the number of agency representatives that a company with interests in both domestic and imported goods is required to deal with;
- result in significant compliance cost savings to the Australian alcohol industry;[104] and
- enable harmonisation and simplification of the differing administration requirements pertaining to excisable goods and EEGs through the development of a single, unified regime for all products.

DSICA understands and acknowledges that:

- the cost of undertaking any proposed reforms are key factors to be considered by the Government;
- consolidation of the varying regimes and administrative matters pertaining to excisable goods and EEGs into a single Act may take some time to complete; and
- undertaking reform option one will require more resources than any other reform option canvassed.

Notwithstanding these considerations, DSICA contends that undertaking reform option one will be a worthwhile investment of time and resources that will:

- maximise the benefit derived from the single administration initiative through substantial simplification and harmonisation of existing administration requirements;
- enhance business and government efficiency;
- ensure appropriate use of government resources;
- ensure consistency in the treatment of both excisable goods and EEGs;
- deliver the greatest cost reduction benefits to the Australian alcohol industry over the medium to long-term; and
- significantly reduce the regulatory and administrative burden placed on alcohol importers and manufacturers.

[102] Australian Taxation Office, *About Us* (2012) http://www.ato.gov.au/corporate/pathway.aspx?sid=42&pc=001/001/002&mfp=001&mnu=39504#001_001_002.
[103] Australian Customs and Border Protection Service, *About Customs and Border Protection* (5 September 2012) http://www.customs.gov.au/site/page4222.asp.
[104] Note that the savings expected to accrue under this reform option have not yet been quantified by the Australian distilled spirits industry.

In light of these potential benefits, DSICA contends that while this may appear to be a long-term reform objective, it is not an unachievable one. In this regard, DSICA welcomes the opportunity to work with representatives from the Treasury, Customs, the Ministerial Partnership and other government departments and agencies to further develop and implement reform option one.

Recommendation 13: Introduction of a new Administration Act applying to excise equivalent goods and excisable goods

That the Government announce the introduction a new Act which covers all administrative matters relating to excisable goods and EEGs in the 2013-14 Federal Budget.

In developing and implementing the new Administration Act, that the Government facilitate arrangements whereby:

- the ATO assumes sole responsibility for all revenue collection matters, licensing and warehouse matters, movement permissions, returns and settlement permissions, disposal supervisions and compliance and/or audit functions for both EEGs and excisable goods;
- Customs continues to assume sole responsibility for all border protection issues; and
- portfolio responsibility for the new Administration Act rests with the Treasurer, with the ATO providing input and guidance on the legislation as required.

14 Administration of the five per cent ad valorem customs duty

The customs and excise duty regimes applying to alcohol beverages in Australia are highly complex, and inevitably require considerable time and effort to satisfy compliance requirements. For businesses with interests in both excisable goods and EEGs, this level of complexity is substantially greater, especially for those businesses with interests in imported distilled spirits and RTDs which attract a five per cent ad valorem customs duty.

As noted in Chapter 9, imported spirits and RTDs are currently subject to a five per cent nuisance ad valorem customs duty (the nuisance duty) where imported from countries other than countries with which Australia has a preferential trade agreement. In addition to this 'protective' customs duty, a volumetric excise equivalent customs duty of $76.37 per LPA (as at 1 February 2013) applies to imported spirits and RTDs, whilst domestically-produced spirits and RTDs are subject to an excise duty of $76.37 per LPA only.[105] The complexities associated with administering this nuisance duty are significant for businesses – such that some DSICA members require additional staff to assist in managing warehoused goods as a result of the time and labour intensive processes associated with managing EEGs subject to this duty. In light of the small amount of revenue this duty generates for government, and the significant administrative burden it carries, DSICA contends that removal, or at the very least, reform, is a key priority for the Government.

This issue is addressed below.

14.1 Impact of the five per cent ad valorem customs duty

Complying with administrative requirements relating to payment and tracking of the nuisance duty is particularly burdensome on businesses, as outlined below.

When importing EEGs into Australia, an entry is lodged with Customs as either:

- duty paid (Nature 10); or
- duty deferred (Nature 20).

In most cases, the five per cent ad valorem duty component is calculated on the basis of the price the importer pays, less international freight and insurance costs. As purchase prices, freight costs, insurance costs and container quantities frequently change, the calculation of the ad valorem duty payable is variable. However, it is generally a small amount, especially when compared to the excise equivalent customs duty liability, as demonstrated in Figure 14-1.

Figure 14-1: Comparison of ad valorem and excise equivalent customs duties payable – imported spirits products

Product	Country of Origin	Estimated customs value per case	Ad valorem customs duty		Excise equivalent customs duty (as at 1 February 2013)	
			Rate	Duty payable	Rate	Duty payable
Imported spirits (12 x 700mL; 40° abv)	Scotland (MFN customs duty rate)	$50	5%	$50 x 5% **$2.50**	$76.37 per LPA	40° x 8.4L x $76.37 **$256.60**
Imported spirits (12 x 700mL; 40° abv)	United States of America (preferential customs duty rate)	$50	0%	$50 x 0% **$0.00**	$76.37 per LPA	40° x 8.4L x $76.37 **$256.60**

Significant administration burdens are incurred by businesses in accounting for and paying this particularly low-value nuisance duty. Most notably:

- Customs recording requires the goods to be tracked according to the original entry (Nature 20);

[105] Note that there is a concessional rate of $71.31 per LPA (as at 1 February 2013) applying to brandy products.

- until the ad valorem customs duty applying to EEGs is duty-paid, an importer must receipt, store, transfer and/or settle the tax liability via the original Nature 20 entry; and
- a bond register (at the import container level) needs to be maintained where EEGs are recorded via the original Nature 20 entry. As the ad valorem duty component is variable due to changes in cost per shipment, a bond register must be kept to ensure that the importer's warehouse has the capacity to record inventory appropriately and trace every individual bottle back to the shipment and its calculated ad valorem customs duty.

As such, all transactions must be recorded from this Nature 20 register. This requirement is not a standard part of most inventory systems and therefore must be custom-built into the inventory system (which is particularly expensive), or run in parallel to the inventory system (which results in significant duplication).

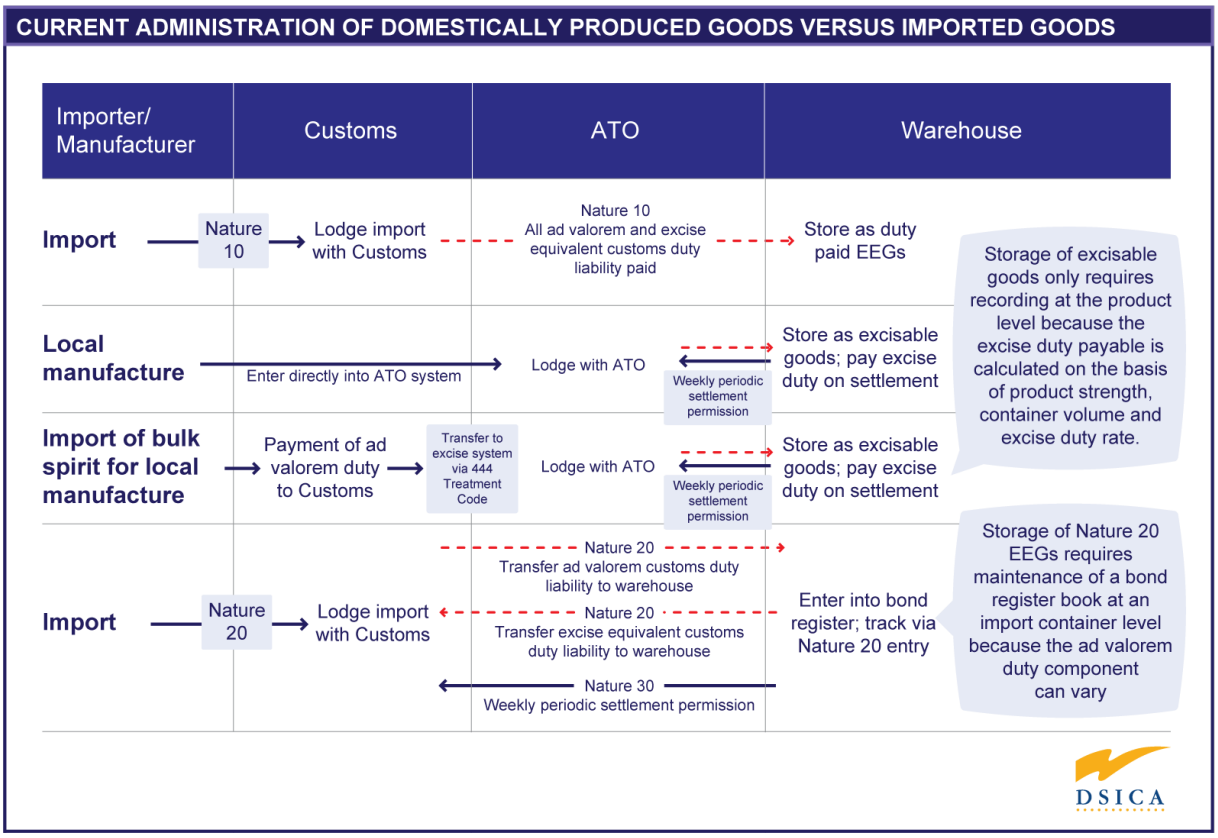
Further, in instances where EEGs are imported from a country with which Australia has a preferential trade agreement (and therefore there is no nuisance duty payable), this identical process must be completed (including a Nature 20 entry to account for the excise equivalent customs duty payable), even though there is no variable cost due to there being no ad valorem duty payable.

This minimal nuisance duty creates a significant administrative burden for importers as it requires:

- tracking to the original shipment or clearance, as opposed to reporting at the product level;
- a complicated bond register at a warehouse level to record the inventory at a Nature 20 level;
- additional functionality in the inventory system (e.g. sequential number reporting);
- added complexity in transferring to other bonds;
- payments of customs duty and lodgement of ex-warehouse declarations (Nature 30 entries) to reference the original Nature 20 entry; and
- extra resources to manage the complexity of Nature 20 entry recording for smaller businesses.

Conversely, tracking and payments pertaining to domestically-manufactured spirits and RTDs (which do not attract this ad valorem customs duty) are undertaken at the product level. This is considerably simpler, and only requires knowledge of the product's bottle size, applicable excise duty rate and alcohol strength. Figure 14-2 contrasts the complex nature of managing EEGs, and the simplicities associated with management of excisable goods.

Figure 14-2: Administration of domestically produced goods versus imported goods



Copyright DSICA 2013

Source: Australian Taxation Office

As demonstrated in Figure 14-2, there is a need to enhance the current administrative processes to reflect this simplicity and reduce the burden borne by importers. This consideration is further magnified by the fact that this significant administrative burden is borne by businesses to account for a very small tax amount payable – as demonstrated in Figure 14-1, approximately only $2.50 per case of spirits. Given this, it is unsurprising that ad valorem customs duty collections are expected to deliver only approximately $19 million in revenue in 2013-14.[106]

14.2 Reform of the five per cent ad valorem customs duty

DSICA has identified two potential reform opportunities in relation to the five per cent ad valorem customs duty:

- **Reform Option 1:** abolish the five per cent ad valorem customs duty (preferred DSICA position, as discussed in Chapter 9).
- **Reform Option 2:** allow payment of the ad valorem customs duty and excise equivalent customs duty to be split, effectively treating EEGs as excisable goods.

Each of these reform options is discussed below.

Reform Option 1: Abolish the five per cent ad valorem customs duty

DSICA seeks immediate removal of the five per cent ad valorem customs duty on all spirits and RTDs imported into Australia. This would significantly reduce the administrative burden borne by alcohol importers, and overcome the time and labour-intensive reporting requirements outlined in Section 14.1.

[106] The Treasury, above n 75.

As discussed in Chapter 9, Reform Option 1 is supported by the WTO, the Henry Review and the Productivity Commission and would result in broader benefits to the industry and consumers alike. Removal of the five per cent ad valorem customs duty would be a perfect example of unilateral reform (as advocated in the Gillard Government Trade Policy Statement *Trading our way to more jobs and prosperity)* and is to be strongly supported. [107]

DSICA acknowledges that while removal of the duty is expected to result in revenue losses in the vicinity of $88 million over the period 2013-14 to 2016-17,[108] proposed changes to the taxation of traditional cider products outlined in Chapter 3 are forecast to provide additional revenue of $403 million over the period 2013-14 to 2016-17. This additional revenue may be used to offset any revenue loss arising through removal of the duty.

Reform Option 2: Allow payment of the ad valorem customs duty and excise equivalent customs duty to be split

Should Reform Option 1 not be accepted, DSICA proposes that payment of the ad valorem customs duty and the excise equivalent customs duty be split, thereby treating the goods as excisable goods, rather than subject to excise equivalent customs duty. In essence, this proposal would allow for:

- payment of the ad valorem customs duty at the time of clearance; then
- deferral of the excise equivalent customs duty payable (i.e. at the time the goods are entered for home consumption, effectively treating it as excise duty).

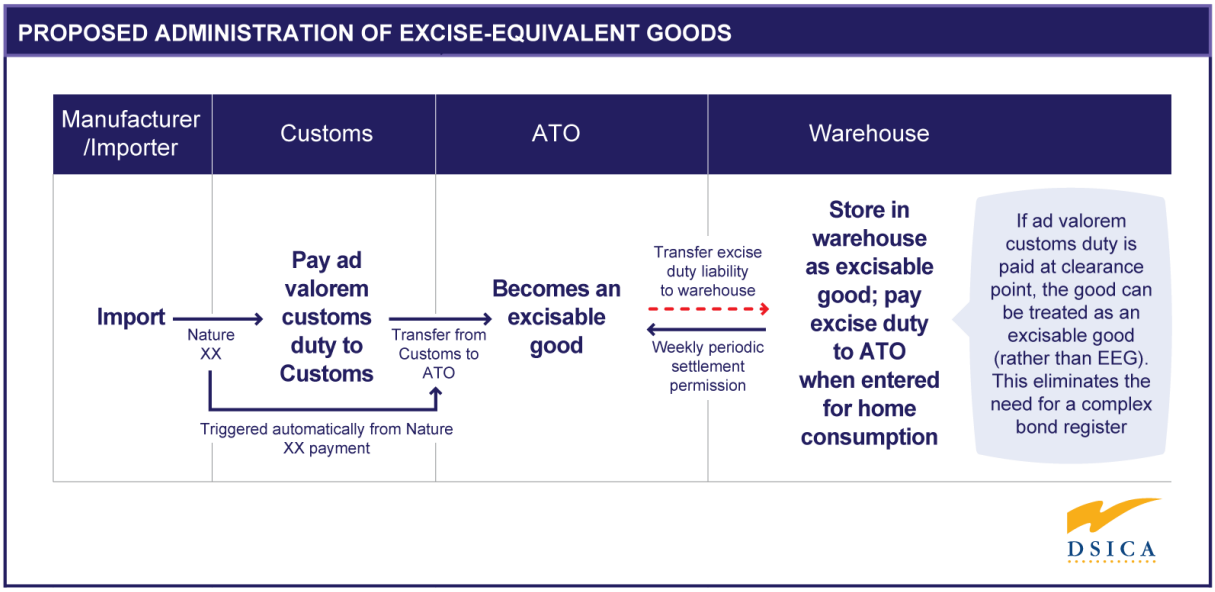
In implementing this regime, DSICA envisages that:

- a new Customs payment regime would be arranged, facilitating payment of the ad valorem customs duty to Customs at the time of clearance; and
- payment of the ad valorem customs duty would extinguish liability for payment of excise equivalent customs duty, simultaneously transferring the EEGs to the excise system, where they would be subject to excise duty (which is payable when the goods are entered for home consumption).

Figure 14-3 provides a diagrammatic representation of DSICA's proposal.

[107] Department of Foreign Affairs and Trade, above n 85, 7.
[108] The Treasury, above n 75. See also Chapter 9.

Figure 14-3: DSICA's proposal to split ad valorem customs duty and excise equivalent customs duty payments, treating EEGs as subject to excise duty



Copyright DSICA 2013

Source: DSICA Pre-Budget Submission 2013-14

An arrangement similar to that proposed by DSICA in Figure 14-3 is currently in operation in the context of domestic RTD manufacture using imported bulk spirit. Under this system:

- the five per cent ad valorem customs duty payable on the bulk spirit is recorded and paid using a Nature 20 entry; and
- the liability to pay excise equivalent customs duty on the bulk spirit is extinguished when the goods are entered for warehousing (in a warehouse which has both an Excise Manufacture Licence and a Customs Warehouse Licence) and for later manufacture into excisable goods (i.e. RTDs) (for further detail, see the *Customs Act 1901* (Cth) s 105B). The excise duty liability on the manufactured RTDs is payable when the goods are entered for home consumption.

Multiple benefits are to be derived from implementing this arrangement, including:

- removing the need to maintain a complicated, time and labour-intensive Nature 20 bond register, as entries would be recorded directly in the excise system;
- the development of one set of rules for drawback and remission applications, which would relate to both EEGs and excisable goods; and
- the development of one payment pertaining to excisable goods to the ATO, rather than two payments – one pertaining to excise duties made to the ATO, and one pertaining to excise equivalent customs duties made to Customs.

These benefits would greatly reduce the administrative and reporting burden borne by importers of EEGs (and commensurate use of resources in the ATO and Customs), and would further enhance effectiveness of the single administration initiative.

Recommendation 14: Reform of the ad valorem customs duty applying to imported distilled spirits and RTDs

If outright removal of the five per cent ad valorem customs duty applying to imported spirits and RTDs is not possible, that the Government pursue reforms which enable payment of the ad valorem customs duty and excise equivalent customs duty applying to EEGs to be split, extinguishing the excise equivalent customs duty payable upon payment of the ad valorem customs duty, and creating an excise duty liability.

Estimated revenue impact: Unquantified

15 Monthly Periodic Settlement Permissions for larger businesses

A permission to deliver goods into home consumption without an entry is known as a PSP. Under a PSP, the entity must lodge a return specifying the goods delivered during the settlement period and pay the relevant duty on those goods. Until recently, all taxpayers were required to lodge a PSP on a weekly basis. Recent legislative changes now permit small businesses to lodge a PSP on a monthly basis. DSICA strongly encourages expansion of this legislative amendment to include all taxpayers.

15.1 Impact of weekly reporting requirements on the alcohol industry

Traditionally, all alcohol taxpayers in Australia have been required to lodge settlement of their excise duty and excise equivalent customs duty on a weekly basis.

Recent changes introduced through the *Excise Amendment (Reducing Business Compliance Burden) Act 2012* (Cth) and the *Customs Amendment (Reducing Business Compliance Burden) Act 2012* (Cth) (the Acts) have significantly reduced this administrative burden on businesses through:

- **Streamlining of accounting procedures:** the Acts permit all taxpayers to select the most convenient day on which to lodge settlement of their excise duty and excise equivalent customs duty under the seven-day reporting option.[109] This greatly assists reporting businesses as it enables them to select a reporting day which coincides with their existing accounting practices, and provides significant assistance for businesses without full-time in-house accounting assistance, who can now select a reporting day to coincide with a day on which an accounts administrator is present.
- **Deferment of reporting period in cases of no duty payments:** the Acts facilitate the use of a longer reporting period in cases where the taxpayer does not have any duty liability.[110] This reform is available for all taxpayers and will result in a significant reduction in the existing reporting burden borne by taxpayers, minimising the time spent on preparing nil returns.
- **Clarity regarding reporting periods:** the Acts clarify the circumstances under which either a weekly or calendar month reporting period is available and note that this will assist in resolving existing uncertainty for taxpayers as the *Excise Act 1901* (Cth) s 61C is silent on the relevant 'timeframe' for which a settlement period permission may apply. While historic practice has resulted in most permissions being granted on a standard seven-day accounting period basis, DSICA understands that some reporting entities have been granted longer reporting periods. The basis on which permissions for extended reporting timeframes have been granted is unclear.[111]

Provisions for small businesses and opportunities to include all business sizes

In addition, the Acts introduce an option for monthly settlement of excise duty and excise equivalent customs duty for small business entities, i.e. broadly those with turnover of less than $2 million per annum.[112] DSICA strongly supports this reform and notes that it will result in a significant reduction in the time-consuming and labour-intensive reporting burden borne by small business entities. As such, this reform will reduce the number of excise and customs returns lodged per year by these businesses from 52 to 12.

DSICA highlights the fact that this reform builds on the Government's *Ahead of the Game: The Blueprint for Reform of Australian Government Administration* (Ahead of the Game Review) agenda which outlined the following recommendation:

[109] *Excise Act 1901*(Cth) s 61C(1A); *Customs Act 1901* (Cth) s 69(2).
[110] *Excise Act 1901* (Cth) s 61C(3A).
[111] Explanatory Memorandum, Excise Amendment (Reducing Business Compliance Burden) Bill (Cth) 2011 and Customs Amendment (Reducing Business Compliance Burden) Bill (Cth) 2011 [1.16].
[112] *Excise Act 1901* (Cth) s 61C(1)(b); *Customs Act 1901* (Cth) s 69(1)(d).

> *'Recommendation 1.4: Reduce unnecessary business regulatory burden*
>
> *Minimise reporting and compliance requirements for business and remove any unnecessary or poorly designed regulation.'*[113]

Despite this positive reform, DSICA notes that it is only available to 'small business entities' as defined by the *Income Tax Assessment Act 1997* (Cth) s 328-110. As this definition is limited to businesses which have an aggregated turnover for the previous year of less than $2 million, or are likely to have aggregated turnover for the current year of less than $2 million, DSICA members' business operations are effectively excluded from receiving the benefit of this reform. Indeed, one DSICA member has noted that the requirement to settle excise and customs duties on a weekly basis requires the use of substantial resources and time, including:

- two analysts, each of whom spend half a day each week preparing settlement reports;
- the use of a customs broker, who spends two hours each week lodging the member's submission in the ICS;
- a Finance Manager who spends one hour each week reviewing and approving each submission;
- one hour expended by the Payment Team each week in processing relevant payments; and
- three hours each week spent by an Analyst in actioning the payment clearing process.

It is noted that this process is not only time, labour and administratively intensive for DSICA members, but there must also be a commensurate use of resources in Customs and the ATO, actioning and reconciling relevant payments.

15.2 Reform towards a monthly Periodic Settlement Permission arrangement

DSICA strongly supports the reforms outlined in Section 15.1 and strongly recommends that the operation of the monthly PSP period be expanded to include all taxpayers, rather than applying to small businesses only.

In expanding this reform, DSICA notes that:

- the proposed preferential treatment afforded to small business entities would be removed, and all taxpayers would be able to benefit from the reduced reporting burden; and
- this would give greatest effect to the recommendations outlined in the Ahead of the Game Review and the Henry Review by expanding implementation of these reforms to include all taxpayers of excise duty and excise equivalent customs duty.

DSICA's reform proposal is supported by a number of key stakeholders. In particular:

- the **Corporate Tax Association of Australia** noted *'although we support these initiatives, we feel that the policy supporting these administrative concessions can be equally applied to large payers of excise who … would derive the same administrative benefits from such changes'*;[114] and
- the **Australian Institute of Petroleum,** representing another key group of excise taxpayers, stated that it is *'strongly opposed to excise administration arrangements that confer commercial advantage on some businesses within a competitive market, but not others'*.[115]

[113] Australian Government (Advisory Group on Reform of Australian Government Administration), *Ahead of the Game: Blueprint for the Reform of Australian Government Administration* (Australian Government, 2010) 37.
[114] Corporate Tax Association of Australia Incorporated, Australian Institute of Petroleum, Submission to The Treasury, *Exposure Draft – Excise Amendment (Reducing Business Compliance Burden) Bill 2011* (Cth) and *Customs Amendment (Reducing Business Compliance Burden) Bill 2011* (Cth), 4 November 2011, 1.
[115] Australian Institute of Petroleum, Submission to The Treasury, *Exposure Draft – Excise Amendment (Reducing Business Compliance Burden) Bill 2011* (Cth) and *Customs Amendment (Reducing Business Compliance Burden) Bill 2011* (Cth), 28 October 2011, 2.

To this end, DSICA would welcome expansion of the operation of the monthly settlement arrangements to include *all* taxpayers rather than small business entities only. This reform measure would significantly reduce the number of excise and excise equivalent customs duty returns prepared by businesses, offering substantial time and resource savings.

Recommendation 15: Expand operation of the monthly PSP arrangements to include larger businesses

That the Government expand operation of the current monthly PSP arrangements to include all taxpayers, rather than small businesses only.

Estimated revenue impact: Unquantified

16 Streamlining of customs and excise duty refund permissions

Refunds of excise duty on excisable goods or customs duty on EEGs are allowed in certain circumstances. DSICA members have long expressed concern that the circumstances in which refunds are payable are not consistent between the excise duty and excise equivalent customs duty regimes. There is a need to demonstrate alignment and equal treatment between alcohol beverages and other products in respect of excise duty and customs duty refunds.

16.1 Impact of customs and excise duty refund arrangements

The differing circumstances in which a refund of excise duty or customs duty is available is particularly evident in the treatment of alcohol beverages and tobacco products. Most notably, a refund of excise duty or customs duty in respect of alcohol beverages is only available on goods:

- with production issues (i.e. 'leakers', or in instances of contamination);
- which, while subject to excise control, deteriorated or had been damaged, pillaged, lost or destroyed, or become unfit for human consumption; or
- where there is a manifest error (e.g. keying/dispatch errors).[116]

However, tobacco products enjoy a more favourable refund regime, under which any goods returned and destroyed (e.g. aged stock) or mixed with other tobacco may receive a refund of excise duty or customs duty.[117]

For DSICA members, the inability to receive excise duty and customs duty refunds for aged stock is particularly problematic. Indeed, one DSICA member noted that a potential $185,000 in refunds of excise duty and customs duty may have been received if the same refund provisions relating to tobacco were also available in respect of alcohol beverages. The current arrangements have a most detrimental impact on alcohol taxpayers' profitability.

16.2 Reform towards a consistent regime for excise equivalent goods and excisable goods

DSICA contends that a more commercially realistic refund regulation regime should be adopted for alcohol beverages. In particular, DSICA strongly supports expansion of the provision within the *Excise Regulations 1925* (Cth) Reg 55(1) (and corresponding customs legislation) to permit a refund of excise duty in similar circumstances to tobacco products. This would ensure that alcohol taxpayers pay excise duty and customs duty on products actually consumed, rather than those which are not.

Recommendation 16: Adoption of a streamlined approach to customs and excise duty refund permissions

That the Government allow refunds of excise duty and customs duty for alcohol beverages which are returned and destroyed due to age of stock.

Estimated revenue impact: Unquantified

[116] Note that this list of circumstances in which a refund may be sought is not exhaustive. Refer to the *Excise Regulations 1925* (Cth) reg 50(1) for further detail.
[117] *Excise Regulations 1925* (Cth) re 50(1)(h) and 55.

Health and social policy

Health and social policy

Within Australia and internationally, the dominant contemporary approach to alcohol policy is to view 'alcohol' in isolation from other critically important social and cultural factors that also impact on societies.

The purpose of this section is to highlight the importance of moving beyond this simplistic notion to a situation where governments recognise the consumption of alcohol as an integral part of the social, economic and cultural context in which it occurs.

The vast majority of Australians consume alcohol responsibly and clearly enjoy the personal and social benefits associated with drinking in moderation.

For any national approach to alcohol policy to be successful, it should acknowledge the place of alcohol in the Australian culture and be aligned with the expectations of the community to be able to access and consume alcohol, free of unnecessary regulations, whilst targeting the misuse of alcohol and protecting vulnerable Australians.

As long as the focus of alcohol policy remains primarily on alcohol use (and not misuse) and ignores the reality that the overwhelming majority of Australians drink in moderation, policy responses will inevitably remain narrow and limited in focus. These policies will continue to be ineffective in achieving the goal of a sustained reduction in alcohol misuse.

National alcohol policies should reflect society's desire to enjoy the benefits associated with moderate consumption while also acknowledging the need to tackle the negative consequences associated with the misuse and irresponsible use of alcohol amongst a minority of consumers. An overarching duty of care responsibility to vulnerable members of the community is acknowledged by DSICA.

There are a myriad of factors influencing the drinking culture of any community. It is also the case that a variety of individual and societal stressors influence the likely levels of individual and community harms associated with the misuse of alcohol, whether short or long-term.

Failure on the part of society to address these contributing factors will lessen our capacity to prevent underage drinking and reduce alcohol misuse. A major focus on social norms and expectations is required. Changing the cultural norm away from intoxication and towards moderation is a critical factor if we are to achieve sustainable change for the minority of young people who 'drink to get drunk'.

The moderate consumption of alcohol is consistent with a healthy adult lifestyle. This message should be promoted alongside those discouraging underage drinking and targeting the misuse of alcohol.

In light of these considerations, this section discusses:

- alcohol consumption in Australia, including long-term trends and comparative analysis with other jurisdictions;
- the cost of alcohol-related harm(s) in Australia;
- minimum floor pricing and recent national and international developments on this issue; and
- population-wide versus targeted policies to address alcohol misuse.

Each of these issues is discussed in turn.

17 Alcohol consumption in Australia

DSICA supports the Government's commitment to changing Australia's drinking culture and addressing alcohol misuse. DSICA considers that policy development and program implementation aimed at achieving targets to reduce harmful alcohol consumption must be based on the best available evidence, and must involve collaboration between state and federal governments, the community, the alcohol industry and other key stakeholders.

Contrary to some persistent claims of increasing levels of 'binge drinking' and 'alcohol abuse', recent independent reports and analysis of data relating to alcohol consumption patterns, behaviours and trends indicate that:

- there is a stable trend in Australian adult per capita alcohol consumption; and
- the majority of Australians drink responsibly, at levels below the risk of long-term harm.

Each of these facts is discussed in further detail below.

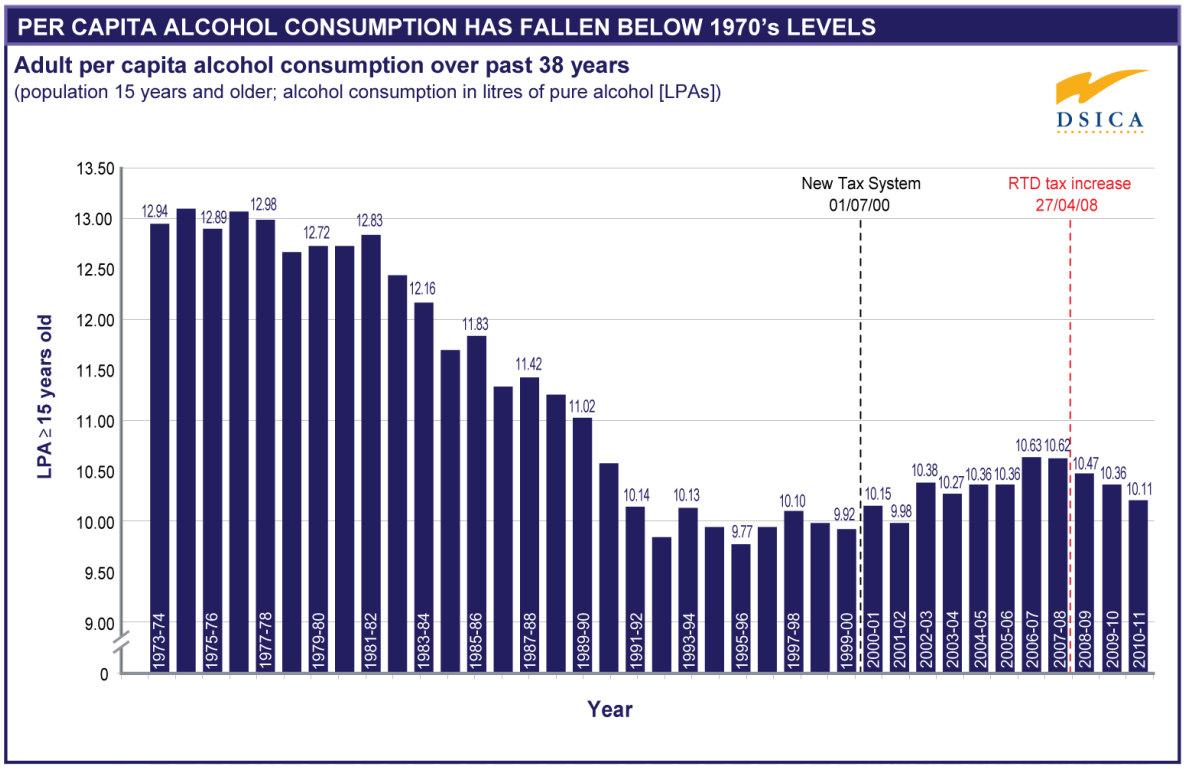
17.1 Long-term trends in alcohol consumption

DSICA estimates adult per capita (population 15 years and over) alcohol consumption for 2010-11 in Australia at 10.11 litres of pure alcohol (LPAs). This is down from 10.36 LPAs adult per capita consumption in 2009-10. These figures are primarily derived from the ABS *Apparent Consumption of Alcohol, Australia* series and are supplemented from industry sources on 'traditional' cider (as traditional cider is not included in the ABS data collection).

A time series of adult per capita alcohol consumption from 1973-74 to 2010-11 is provided at Figure 17-1. DSICA highlights the following observations and insights in relation to this time series:

- current adult per capita consumption has fallen below levels in the 1970s and is now more than 22 per cent below its 30-year high reached in 1974-75;
- there has been no significant increase in adult per capita consumption since the *A New Tax System* reforms of 1 July 2000, which included a reduction in the tax rate applied to RTDs; and
- while the reduction in RTD volumes after the RTD tax increase on 27 April 2008 was entirely offset by switching/substitution to full-strength bottled spirits, beer, traditional cider and wine, growth in alcohol volumes has been outpaced by population growth. As a result, per capita consumption has continually declined since 2008-09.

Figure 17-1: Adult per capita alcohol consumption in Australia (1973-74 to 2010-11)



Copyright DSICA 2013

Source: ABS, LMAA, DSICA Pre-Budget Submission 2013-14

The Australian Institute of Health and Welfare (AIHW) confirmed this stable trend in per capita alcohol consumption and daily drinking patterns, and noted:

> *'Between 1993 and 2007, the daily drinking patterns of people in Australia aged 14 years or older remained largely unchanged, at around 8 per cent. However, in 2010, there was a statistically significant decrease (since 2007) in the proportion of people drinking daily.'*[118]

This reinforces DSICA's view that there has not been a dramatic change in overall alcohol consumption patterns in the last ten to 15 years that would justify the term 'binge drinking epidemic'.

17.2 The majority of Australians drink responsibly

Alcohol is widely enjoyed throughout Australian society and is broadly accepted as a way of relaxing and socialising. It is important to note that the majority of Australians drink in a responsible manner without harm to themselves or others. Indeed, the Preventative Health Taskforce acknowledged the role of alcohol in Australian society and the fact that the majority of Australians drink responsibly:

> *'The majority of Australians who regularly drink, do so in moderation. Around three quarters (72.6 per cent) of Australians drink below levels for long-term risk of harm.'*[119]

In 2010, over 58 per cent of the Australian population (aged 12 years and older) drank alcohol at low-risk levels,[120] while approximately 21 per cent were recorded as 'abstainers' (i.e. those who had not consumed alcohol in the previous 12 months). Therefore, if low-risk drinkers are combined with abstainers, almost 80 per cent of the population consume alcohol in a way that does not put them at risk of harm from alcohol-related disease or injury over their lifetime.[121]

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[118] Australian Institute of Health and Welfare, *2010 National Drug Strategy Household Survey Report* (Australian Institute of Health and Welfare, 2011) 46.
[119] Preventative Health Taskforce, above n 9, 23.
[120] I.e. low-risk levels of alcohol-related harm over a lifetime.
[121] Australian Institute of Health and Welfare, above n 118, 53.

17.3 Australia's comparative alcohol consumption

There is a common misperception that Australians are heavy drinkers when compared with other countries. The reality is that adult per capita consumption of alcohol in Australia is lower than in comparable developed countries. A comparison between the OECD countries for which per capita consumption data is available (see Figure 17-2) reveals that Australia ranked only 12th out of a total of 29 countries in 2009, strongly suggesting that Australia's per capita consumption is not particularly high.[122]

Figure 17-2: Australia's comparative alcohol consumption (2009)

AUSTRALIA DOES NOT HAVE A HIGH LEVEL OF PER CAPITA ALCOHOL CONSUMPTION COMPARED WITH OTHER OECD COUNTRIES

Ranking	Country	LPAs per capita
1	Luxembourg	15.3
2	France	12.3
3	Austria	12.2
4	Czech Republic	12.1
5	Estonia	11.9
6	Germany	11.7
7	Hungary	11.5
8	Spain	11.4
9	Ireland	11.3
10	Slovak Republic	10.7

Ranking	Country	LPAs per capita
11	Slovenia	10.5
12	Australia	10.3
13 (Equal Ranking)	United Kingdom Poland	10.2
15 (Equal Ranking)	Switzerland Denmark	10.1
17	Finland	10.0
18	Netherlands	9.4
19	New Zealand	9.3
20	Korea	8.9

Statistics taken from the 2009 Non-Medical Determinants of Health: Alcohol Consumption dataseries (revised data accessed on 5 December 2012). Note that statistics relating to alcohol consumption collected by the OECD and DSICA differ, however only OECD statistics have been used in this comparison to ensure consistency across all countries. Only the top 20 alcohol consuming OECD members are shown

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Source: OECD

A further comparison with nine selected OECD countries in the *International Comparison of Australia's Taxes* report further supports this conclusion.[123] DSICA's analysis reveals that within these ten OECD countries (referred to as the 'OECD-10'), Australia has the second lowest per capita consumption of alcohol beverages.

The World Health Organization (WHO) ranks Australia as 44th out of 188 countries in terms of per capita alcohol consumption.[124] *DSICA cautions readers about such large international comparisons due to cultural and religious factors in some other countries.* Accordingly, DSICA believes it is appropriate to compare Australia's consumption only against similar Western countries – as in the OECD comparisons above.

17.3.1 Trends in risky and high-risk drinking behaviours

The *National Drug Strategy Household Survey* is a valuable source of information regarding long-term trends in Australian alcohol consumption. In order to better understand beverage preferences amongst key age groups and longitudinal trends in risky and high-risk drinking behaviours, DSICA has commissioned researchers at the Australian Demographic and Social Research Institute of the

[122] Organisation for Economic Co-Operation and Development, *Non-Medical Determinants of Health: Alcohol Consumption* (Organisation for Economic Co-Operation and Development, 2009).
[123] Ibid.; Richard Warburton and Peter Hendy, *International Comparison of Australia's Taxes* (Australian Government, 2006) 268.
[124] World Health Organization, *Global Status Report on Alcohol and Health 2011* (World Health Organisation, 2011) 273-7.

Australian National University to undertake an extensive investigation of these considerations. It is expected that these research findings will be made available in the near future.

18 The cost of alcohol-related harm(s)

DSICA understands that there has been considerable debate in the Australian community regarding varying estimates of social costs of alcohol misuse in Australia, which range from $3.8 billion to $36 billion annually.[125] The recent Australian National Preventative Health Agency Draft Report *Exploring the public interest case for a minimum (floor) price for alcohol* commented on these varying estimates, however noted that

> *'The total social costs of harmful alcohol consumption to the Australian community are estimated to be $15.3 billion annually.'*[126]

DSICA understands that the reference to the $15.3 billion figure has been derived from the Collins and Lapsley monograph *The costs of tobacco, alcohol and illicit drug abuse to Australian society in 2004/05,*[127] while the reference to the $36 billion figure has been taken from the report by Laslett et. al, *The range and magnitude of alcohol's harm to others.*[128] DSICA strongly opposes the methodologies used by Collins and Lapsley to estimate the social costs of alcohol consumption to the Australian community and Laslett et. al. to estimate the costs of alcohol harm to others as they grossly overestimate the true costs of alcohol misuse. DSICA's view is supported by independent economic analysis and review undertaken by:

- Access Economics;
- Dr Eric Crampton of the University of Canterbury; and
- Professor Klaus Mäkelä, former Secretary of the Finnish Foundation for Alcohol Studies.

In essence, the methodologies used by Collins and Lapsley and Laslett et. al. are seriously flawed, with a significant degree of double-counting of individual cost components resulting in gross over-estimation of the true social costs associated with alcohol misuse and the costs of alcohol's harm to others. These methodologies are not reflective of internationally accepted methodologies used to calculate social cost estimates and should not be used in public policy development. Figure 18-1 provides an overview of the key critiques of the Collins and Lapsley study *The costs of tobacco, alcohol and illicit drug abuse to Australian society in 2004/05.*

Figure 18-1: Key flaws identified in the Collins and Lapsley report The costs of tobacco, alcohol and illicit drug abuse to Australian society in 2004/05

Researcher/ agency	Key flaws and conclusions
Access Economics	**Key flaws** • Collins and Lapsley use a 'demographic approach' to cost estimation, an uncommon methodology that means the authors have attempted to estimate the impact of alcohol abuse retrospectively. The reason for undertaking a retrospective rather than forward-looking approach is unclear, as is the policy usefulness of such an approach, and is likely to yield a much higher cost estimate than the human capital approach.[129] • 'Alcohol abuse' is never clearly defined in the report, and definitions implicit in different cost elements vary throughout.[130] • Collins and Lapsley do not mention the very large private benefits of responsible alcohol consumption in terms of utility value (choice, enjoyment). It is a major flaw to exclude private costs from total social costs and private benefits from total social benefits, and it is

[125] Australian National Preventative Health Agency, *Exploring the public interest case for a minimum (floor) price for alcohol: Draft Report* (Australian Government, 2012) [15].
[126] Ibid [12].
[127] David Collins and Helen Lapsley, *The costs of tobacco, alcohol and illicit drug abuse to Australian society in 2004/05* (Australian Government, 2008).
[128] Anne-Marie Laslett et. al., *The Range and Magnitude of Alcohol's Harm to Others* (Alcohol Education and Rehabilitation Foundation, 2010).
[129] Access Economics, *Collins and Lapsley report review: social costs* (Access Economics 2008) i.
[130] Ibid.

Researcher/ agency	Key flaws and conclusions
	incorrect to claim that costs borne by individuals are irrelevant to public decision-making.[131] • The revenue estimation shows that taxation raised from alcohol abuse exceeds its cost to Government, so it is budget positive and abusers pay their way by some $1.4 billion (2004-05 prices) per annum. Alcohol taxes thus more than pay for the social costs of alcohol abuse, by a considerable margin, each year.[132] **Conclusion** *'There is apparent upward bias in most of the cost estimates and uncertainty is not dealt with due to grossly inadequate sensitivity analysis. Using a best possible approach would exclude one cost item, making the overall cost of alcohol abuse at least 18 per cent lower. The other findings of the report should be viewed with substantial scepticism.'*[133]
Dr Eric Crampton, University of Canterbury	**Key flaws** • Collins and Lapsley use survey methods to assign the proportion of crime attributable to alcohol which are inadequate for addressing alcohol's causal role in crime.[134] • The public health method used in identifying and calculating the costs imposed on others diverges with methodologies used in regarded economic methods and literature. In particular, the social cost estimation method used in public health literature results in a cost-inflating bias as social costs and private costs are conflated, and many cost categories are double-counted.[135] • The application of per capita GDP as a measure of foregone production arising from absenteeism and premature mortality is considerably larger than the preferred method which uses foregone wages plus employer hiring costs (which constitute an upper bound on gross productivity losses consequent to premature mortality) results in a much larger aggregate wage bill and three significant issues: - where the death is incurred by the drinker, costs are properly considered internal rather than external – only increased employer search costs are plausibly external costs (and therefore able to be included in the calculation);[136] - using per capita GDP rather than wages are a measure of forgone output requires strong assumptions about worker irreplaceability and capital-labour complementarity. Indeed, this method has been rejected by WHO;[137] and - the latter inclusion of intangible costs of loss of life in conjunction with per capita GDP as a measure of forgone production constitutes double-counting.[138] **Conclusion** Only $3.8 billion of the reported $15.3 billion cost can be considered potentially external, a figure which is close to aggregate alcohol taxation revenue.[139]
Professor Klaus Mäkelä, former Secretary	**Key flaws** • Collins and Lapsley argue that resources spent on hazardous drinking should be classified as social costs, since abusive consumers are not fully informed of the effects of alcohol on health. However, a number of studies indicate that users are more knowledgeable than non-users.[140]

[131] Ibid ii.
[132] Ibid.
[133] Ibid iv.
[134] Eric Crampton, Matt Burgess and Brad Taylor, 'What's in a cost? Comparing economic and public health measures of alcohol's social costs' (2012) 125 *New Zealand Medical Journal* 1, 2.
[135] Ibid 1.
[136] Ibid 5.
[137] Ibid.
[138] Ibid.
[139] Ibid 1.
[140] Klaus Mäkela, 'Cost-of-alcohol studies as a research programme' (2012) 29 *Nordic Studies on Alcohol and Drugs* 321, 322.

Researcher/ agency	Key flaws and conclusions
of the Finnish Foundation for Alcohol Studies	• The cost calculations treat the value of stolen property as a loss, however this is misleading from the societal perspective advocated by the cost-of-alcohol literature as it overlooks the revenue of the thief.[141] **Conclusion** *'Even the most sophisticated cost-of-alcohol calculations include entries based on misleading assumptions or logical mistakes. Traditional measures of alcohol problems offer a better picture of the effects of policy measures than cost-of-alcohol estimates'.*[142]

Figure 18-2 provides an overview of the key critiques of the report *The range and magnitudes of alcohol's harm to others* by Laslett et. al.

Figure 18-2: Key flaws identified in the Laslett et. al. report The range and magnitude of alcohol's harm to others

Researcher/ agency	Key flaws and conclusions
Access Economics	**Key flaws** • There was an 'overestimation of the magnitude and impact of alcohol's harm to others within survey responses due to a number of biases'.[143] • Incorrect methods were used to develop attributable fractions, meaning that all cost components are many times overstated.[144] • 'Incorrect methods (were) used to estimate the costs associated with the impact of others' drinking, such as intangible costs of others' drinking on health and wellbeing, of harms experienced and of harms from strangers'.[145] • Flawed methods used by Collins and Lapsley in undertaking earlier studies (which were heavily relied on in the report by Laslett et. al.) to estimate the cost of alcohol abuse in Australia are out-of-line with best practice cost of illness studies, and are likely to overestimate the true cost.[146] **Conclusion** • The costs presented in the report by Laslett et. al. *'appear to be grossly overestimated, and therefore the reported $36 billion total costs represents a poor estimate of the real cost of alcohol's harm to others. Consequently, the total cost and individual cost components should not be used to inform policy decisions regarding the consumption of alcohol'.*[147]

As recognised in the critiques above and by the United Kingdom research group Findings, cost studies are generally limited to quantifying the adverse consequences of drinking, and include benefits (if at all) only in terms of health. While in some instances studies may be limited to these considerations alone, if the study purports to assess total costs to a society, then there is no rationale for excluding other non-health related benefits including the pleasures/value derived through taste, food value, enjoyment of an altered state of consciousness and greater expressiveness, as well as social rewards such as the pleasure given to dinner guests, the solidarity of round-buying and broader social cohesion.[148]

In addition to these concerns relating to the omission of benefits derived from responsible consumption decisions, the estimates of costs imposed on society by drinking are often grossly inflated because (among other things), they assume that hazardous drinking must be irrational consumption, that crime benefits no one, that drinking has no social, psychological or indirect

[141] Ibid 324.
[142] Ibid 339.
[143] Access Economics, *Review of 'The range and magnitude of alcohol's harm to others'* (Access Economics, 2010) i.
[144] Ibid ii.
[145] Ibid.
[146] Ibid.
[147] Ibid i.
[148] Findings, *Cost-of-alcohol studies as a research programme* (20 October 2012) <http://findings.org.uk/count/downloads/download.php?file=Makela_K_2.txt>.

business benefits, and that productivity losses are not counter-balanced by benefits elsewhere.[149] Such assumptions are based heavily on value judgments which are generally imbedded in cost studies, rather than explicitly stated – clouding any sense of objectivity which may be attributable to such studies.[150] It is on this basis, and as demonstrated in Figure 18-2 above, DSICA contends that current cost of harm studies are an inappropriate and inaccurate basis on which to develop evidence-based policy decisions. Traditional measures of alcohol problems, including longitudinal consumption and demographic data offer greater, more robust insight into the extent and nature of alcohol-related harms in society and the impact of specific interventions.

Recommendation 17: Use of cost-of-illness and cost-of-harm studies

That the Government and its agencies refrain from referring to, using or relying on the cost-of-harm and cost-of-illness studies undertaken by Collins and Lapsley and Laslett et. al. in informing public policy debate.

[149] Ibid.
[150] Ibid.

19 Minimum floor pricing

The Australian National Preventative Health Agency (ANPHA) has been tasked with responsibility 'to develop further the concept of the public interest case for a minimum (floor) price of alcohol to *discourage harmful consumption* and *promote safer consumption'* (emphasis added).[151] DSICA strongly opposes the introduction of a minimum floor price in Australia, and contends that it is a blunt, population-wide instrument that will not effectively address ANPHA's policy objectives identified above.

The recently-released *Exploring the public interest case for a minimum (floor) price for alcohol* Draft Report did not support the introduction of a minimum floor price, noting:

> *'… the Agency advises the Commonwealth Government that a minimum (floor) price for alcohol should not be introduced nationally at this time.'*[152]

DSICA is strongly supportive of ANPHA's recommendation, and notes that ANPHA's position is reflective of each of DSICA's submissions in response to the *Exploring the public interest case for a minimum (floor) price for alcohol* Issues Paper and Draft Report. Each of DSICA's submissions noted that a minimum floor price is not an appropriate population-based measure to reduce levels of excessive alcohol consumption in Australia as it will:

- adversely affect sensible, moderate drinkers;
- adversely affect low income individuals and households;
- be inconsistent with Australia's international trade obligations;
- lead to windfall profits in the retail supply chain; and
- produce a wide range of unintended consequences which may mitigate any purported effectiveness – including market restructuring throughout the alcohol industry and increased incentives to sell alcohol products through non-price competition measures.

In addition to this, DSICA contends that there is an evidence vacuum with respect to the minimum price model, particularly with respect to its capacity to reduce alcohol consumption or alcohol-related harms amongst underage and at-risk adult drinkers. Available longitudinal evidence relating to the purported success of minimum floor pricing is drawn from Canada, whilst other support is primarily drawn from academic studies and econometric modelling – principally from the United Kingdom. DSICA contends that these international experiences (notably those in Canada, Scotland, England and Wales) do not provide an empirical evidence base in support of minimum pricing and demonstrate that there is no compelling international precedent relevant to Australia, as described below.

19.1 Alternatives to minimum floor pricing

Rather than implementing a minimum floor price, DSICA favours the introduction of a rationalised tax system based on a volumetric tax across all products, as recommended by the Henry Review. In effect, this would provide a minimum floor price for all alcohol beverages in Australia without adversely affecting sensible, moderate drinkers or low-income households and/or individuals, and would avoid concerns relating to Australia's international trade obligations.

The introduction of a wholly volumetric taxation regime is consistent with recommendations made in the Henry Review (discussed in Section 2.4), and would assist in removing a number of the ongoing distortions within the Australian alcohol market which produce less than optimal health and economic outcomes.

[151] Australian National Preventative Health Agency, *Exploring the Public Interest Case for a Minimum (Floor) Price for Alcohol: Issues Paper* (Australian Government, 2012) [1].
[152] Australian National Preventative Health Agency, above n 125, 9.

DSICA has developed a proposal for reform of the ad valorem WET to a volumetric regime which is designed to operate as a *transition step* in achieving the long-term aim of a single volumetric excise duty rate applying to all alcohol beverages as recommended by the Henry Review. DSICA's wine taxation reform proposal is discussed in Section 6.5.

Recommendation 18: Introduce a volumetric wine taxation regime rather than a minimum floor price

That the Government heed ANPHA's recommendation not to introduce a minimum floor price on alcohol products, and instead pursue reform of the ad valorem WET to a volumetric wine taxation regime. This would create an effective minimum floor price for all alcohol beverages, therefore removing the need to introduce a statutory minimum floor price.

20 Population-wide versus targeted policies

DSICA acknowledges that there is considerable debate regarding the most appropriate policy approach to take with respect to reducing the harms associated with alcohol misuse. However, DSICA does not accept the proposition that whole of population policies are proven to be more effective than targeted policies, in reducing levels of alcohol-related harm.

The International Center for Alcohol Policies in its *Guide to Creating Integrative Alcohol Policies* population model makes the following comments with respect to both approaches:

> *'Control measures are aimed at restricting access to and availability of alcohol through a range of measures applied to the population as a whole. The goal of these control measures is to reduce the overall per capita consumption in an effort to reduce the incidence of harm.*
>
> *The "control of consumption" approach relies on the notion of a defined and linear relationship between the level of alcohol consumption across a population and the level of harm.'*[153]

Advocates for population-based measures have long argued that reducing overall consumption across all alcohol consumers will impact on the levels of alcohol-related harm. Governments have increasingly adopted control policy measures, alcohol consumption has fallen, and yet there appears to be no impact on the levels of harmful drinking amongst certain subsets of the community. In particular, population measures are broad and non-specific and as a result they:

- cannot differentiate between those who drink responsibly and those who abuse alcohol;
- are insensitive to variations and cultural difference in the role of alcohol in society;
- require legislation and structural change for their implementation;
- rely on enforcement to be effective;
- are not tailored to the reality of drinking; and
- are inflexible to change and shifting societal needs.

Conversely, the aim of targeted interventions is to reduce misuse and the harms that flow from that, not to necessarily reduce overall consumption. Targeted interventions seek to reduce the potential for harm by specifically and selectively focusing on problematic drinking patterns amongst those individuals, settings and behaviors where risk of harm from drinking is increased. In this regard, targeted measures:

- specifically address harm where it occurs;
- can be tailored to individual, societal, and cultural differences;
- do not require structural change or legislation for implementation;
- make best use of resources that are available;
- avoid most unintended outcomes by virtue of their specificity; and
- are responsive to the immediacy of community needs.

DSICA believes that the intention behind targeted approaches is to focus attention on those alcohol-related issues causing the greatest concern within the community. The strategy behind targeted approaches does not have as its endpoint a reduction in the overall consumption of alcohol within the

[153] International Center for Alcohol Policies, *Guide to Creating Integrative Alcohol Policies,* (International Center for Alcohol Policies, 2008).

community. However, what it does seek is to reduce the level of harmful drinking and its impacts on individuals and communities. DSICA's position is supported by findings from the International Center for Alcohol Policies, which notes that:

> *'The targeted interventions approach relies on the principles of harm reduction. It is a pragmatic one, recognizing that risks are inherent in many behaviors, but that it is nevertheless possible to reduce and manage many of them. The approach also acknowledges that it is possible to preserve the ability and right of individuals to enjoy drinking, while at the same time reducing the potential for problems.'*[154]

DSICA contends that an integrated, comprehensive approach to alcohol policy development must strike a balance between targeted education, early intervention and selective enforcement strategies. Indeed, individuals must be equipped with the skills they need to make informed consumption decisions and communities must focus on addressing settings and patterns which increase the occurrence of alcohol-related harms. To this end, DSICA believes that evidence-based harm reduction and targeted interventions must include the following considerations observed in the International Center for Alcohol Polices' *Blue Book: Practical guides for alcohol policy and prevention approaches*:

- the provision of balanced information on both benefits and harms;
- a sound evidence base founded on the best available scientific data;
- an approach that is palatable and easy for the public to understand;
- a focus on issues that correspond to actual, familiar and representative drinking behaviours;
- the recognition that alcohol consumption is an integral part of many societies and may be associated with both positive and negative outcomes;
- an approach that addresses the potential for harm in a non-judgmental way;
- strengthening individual responsibility at the same time as enforcing external controls;
- involvement of individuals and their communities in all aspects and levels of policy; and
- development, and consistency with other approaches and measures that are being used.[155]

A significant benefit of targeted approaches is that they do not rely exclusively on governments for their implementation, but require a whole of community response. DSICA would argue that there is considerable scope for communities of interest to formulate a collective approach to reducing harms associated with alcohol misuse.

A new research study by Gilligan et. al. published in the prestigious journal *Alcohol and Alcoholism* in July 2012, raises a broad question with respect to the efficacy of control policy measures in reducing alcohol abuse/binge drinking amongst young people. The study reaches the following conclusion that:

> *'Among all the 40 countries in the present analysis, a non-significant trend was observed, whereby higher prices, higher drinking age and stronger alcohol controls were associated with a lower weekly drinking frequency, but a* ***potentially higher frequency of binge drinking.*** *It is important that future research explores the causal relationships between alcohol policy measures and alcohol consumption patterns to determine whether strict policies do in fact have any beneficial effect on drinking patterns, or lead to rebellion and an increased prevalence of binge drinking (emphasis added).'*[156]

This research finding is particularly important in the Australian context, as we need to ensure that the policy directions we take are appropriately targeted to address binge drinking amongst young people,

[154] International Center for Alcohol Policies, *The ICAP Blue Book: Practical Guides for Alcohol Policy and Prevention Approaches* (International Center for Alcohol Policies, 2011) D.17.
[155] Ibid A.1.
[156] Conor Gilligan, Emmanuel Kuntsche and Gerhard Gmel, 'Adolescent Drinking Patterns Across Countries: Associations with Alcohol Policies' (2012) 0(0) *Alcohol and Alcoholism* 1, 5.

and address at-risk adult groups. Indeed, such an approach is in accordance with WHO's *Global strategy to reduce the harmful use of alcohol,* which, as the strategy suggests, seeks to target *harmful* alcohol use – particularly the behaviours and population groups known to partake in hazardous drinking practices – not alcohol use at the broader, population-wide level.[157]

As a key stakeholder in the alcohol industry, DSICA has over many years contributed in a variety of ways to targeted strategies aimed at helping encourage moderation in the use of alcohol and reducing alcohol misuse. Specific, targeted interventions focused on drinking patterns creating community concern remain a matter of priority for both DSICA and Australian Governments.

20.1 DSICA's vision for alcohol policy development

DSICA contends that a competent, national approach to alcohol policy should be aligned with the dual expectations of the ability to access and consume alcohol, free of unnecessary regulations, coupled with a targeted focus on alcohol misuse and a duty of care to vulnerable Australians.

DSICA, through its publication *Alcohol in Context,*[158]has detailed a vision for alcohol policy in Australia that focuses on reducing alcohol misuse through comprehensive and inclusive national approaches incorporating the following core commitments:

- partnership between government (Commonwealth, Territory, State and Local), the alcohol industry and other relevant stakeholders;
- nationally agreed targets for reducing the scale and impact of alcohol misuse coupled with rigorous evaluation of outcomes of all strategies implemented;
- enforcement of existing regulations targeting underage drinking, public intoxication and drinking and driving. There is already more than enough legislation in place; the key is to ensure appropriate enforcement of existing legislation, not to create more;
- targeted education of professionals on evidence-based strategies for tackling alcohol misuse;
- increased community-based services at the primary care level in the areas of early and brief interventions;
- national mass-media campaigns to increase the reach of messages aimed at promoting a culture of moderation in relation to all alcohol used in Australia; and
- recognition that reducing the misuse and abuse of alcohol cannot be achieved without paying attention to those factors in modern Australia that undermine social cohesion and personal responsibility.

Furthermore, DSICA advocates for the following specific policy objectives:

- encouraging the consumption of alcohol in moderation;
- endorsing the absolute right of adults to purchase and consume alcohol without the imposition of intrusive controls;
- reducing community tolerance towards, and the incidence of, intoxication;
- developing and implementing comprehensive age-appropriate educational alcohol programs within the school curriculum, including a renewed emphasis on the transition years between school, further education and the workplace;
- developing and implementing a national approach to appropriately inform pregnant women and other at-risk populations;

[157] World Health Organization, *Global strategy to reduce the harmful use of alcohol* (World Health Organization, 2010) 5.
[158] Distilled Spirits Industry Council of Australia, *Alcohol in Context* (Distilled Spirits Industry Council of Australia, 2012).

- a commitment to rigorous, evidence-based evaluation of policies to ensure efficacy and cost-effectiveness; and
- a commitment that all categories of alcohol product of equal strength be treated equally by all governments.

Recent publications from the UK think tank DEMOS have focused on the role of parenting in helping reduce the misuse of alcohol by young people. In its most recent report *Feeling the Effects: Effective parenting is the best way to call time on Britain's binge drinking*,[159] DEMOS have described the importance of parental alcohol misuse and its impact on families, including on the risks of a child drinking excessively as a teenager and in later life.

DSICA believes that the learnings from the DEMOS research and findings are particularly applicable in Australia and should be considered carefully when governments and other stakeholder groups are constructing meaningful responses to reducing the misuse and abuse of alcohol. Indeed, DSICA welcomes the opportunity to be actively engaged with the Australian federal, state and territory governments to provide guided input and feedback in developing targeted strategies to reduce alcohol misuse.

DSICA members have actively supported the important and innovative work of DrinkWise Australia since its inception. Indeed, DSICA long advocated for the establishment of DrinkWise as a means of supporting Australians to make sensible choices with respect to their personal consumption of alcohol.

The decision of the DrinkWise Board to place its primary emphasis on targeting the role of parents as the key informers of young people's attitudes towards alcohol has been strongly vindicated in the DEMOS studies.

Recommendation 19: Alcohol industry input to government-led alcohol strategies

That the Australian, State and Territory Governments as well as all stakeholders with a shared interest in preventing alcohol consumption amongst those under 18 and reducing the misuse of alcohol, consider the DEMOS findings, and redouble efforts in cooperation with DrinkWise Australia to reinforce the pivotal role of parents and care givers as role models and educators.

[159] Jonathan Birdwell, Emma Vandore and Bryanna Hahn, *Feeling the Effects: Effective parenting is the best way to call time on Britain's binge drinking* (Demos, 2012).

Conclusion

Alcohol taxation reform

DSICA recommends a revenue positive collection of alcohol tax changes for inclusion in the 2013-14 Federal Budget. These measures include:

- taxing traditional cider at a volumetric rate equivalent to the rate that applies to RTDs **(additional revenue of $403 million over the forward estimates);**
- applying the same volumetric rates to low and mid-strength RTDs that apply to packaged beer as well as applying the 1.15 per cent abv excise-free threshold **(cost of $20 million over the forward estimates);** and
- increasing the brandy excise duty rate to that applying to other alcohol beverages over 10° abv, effectively creating a single excise duty rate for all full-strength bottled spirits products **(additional revenue of $20 million over the forward estimates).**

In addition to these short-term reform priorities, DSICA seeks a commitment from the Government to facilitate introduction of the following long-term reform priorities:

- amending the current RTD excise duty rate to that applying to full-strength packaged beer products; and
- freezing automatic (statutory) indexation of the spirits and RTD excise duty rates as a means of facilitating the transition to a single volumetric rate for all alcohol products, as recommended by the Henry Review.

The Government should also confirm that the significant majority of available evidence indicates that the 'wine glut' has ended and therefore does not inhibit consideration, development and implementation of alcohol taxation reform options. Given this, **now** is an opportune time to pursue wine taxation reform using the five-step process devised by DSICA as a transition step to achieving the long-term goal of a fully volumetric taxation regime for all alcohol beverages.

International trade liberalisation

DSICA also acknowledges the importance of international trade liberalisation, particularly the removal of tariff and non-tariff barriers to trade. DSICA recommends that the Government:

- immediately remove the five per cent nuisance customs duty on imported spirits and RTDs in order to remove structural complexity from the current alcohol taxation regime **(cost of $88 million over the forward estimates);**
- seek elimination of import tariffs on distilled spirits products and their inputs in each FTA under negotiation;
- improve lot identification code protections in current and future FTA negotiations; and
- improve Rules of Origin criteria and requirements in current and future FTA negotiations.

Alcohol taxation administration priorities

DSICA contends that alcohol taxation and trade-related reforms must be supported by an efficient, user-friendly, transparent and effective alcohol taxation administration regime. Building on the recent Legislation and Policy Better Regulation Ministerial Partnership *Excise Equivalent Goods Administration* consultation process, DSICA recommends a number of reforms that should be made in this area, particularly in relation to:

- announcement, in the 2013-14 Federal Budget, of a new Administration Act to cover all administrative matters relating to excisable goods and EEGs;
- removal of, or, at the very least, simplification of the administration processes associated with collection and payment of the five per cent ad valorem customs duty;
- introduction of monthly PSPs for larger businesses; and
- streamlining customs and excise duty refund permissions.

Health and social policy

DSICA is committed to the promotion of responsible consumption decisions and fostering an informed political and social environment that recognises the benefits of moderate alcohol intake and provides opportunities for balanced community discussion on alcohol issues. In light of these priorities, DSICA recommends that:

- the Government and its agencies refrain from using the cost-of-harm and cost-of-illness studies undertaken by Collins and Lapsley and Laslett et. al. in informing public policy debate;
- the Government refrain from introducing a minimum floor price on alcohol beverages, and instead consider introduction of a wholly volumetric alcohol taxation regime through reform of the WET, creating an effective minimum floor price; and
- all levels of Government, as well as stakeholders with a shared interest in preventing alcohol consumption by underage Australians and the reduction of the misuse of alcohol, consider the DEMOS findings and redouble efforts, in cooperation with DrinkWise Australia, to reinforce the role of parents and care givers as role models and educators.

DSICA would welcome the opportunity to work with the Government to develop timeframes and transition arrangements to give effect to these reform proposals.

February 2013

Appendices

Appendices

The following appendices are included in DSICA's Pre-Budget Submission:

- Appendix A: The Australian alcohol market
- Appendix B: The Australian traditional cider market
- Appendix C: Wine glut analysis
- Appendix D: Potential Rules of Origin provisions relating to transhipment
- Appendix E: Table of figures
- Appendix F: List of abbreviations
- Appendix G: References

A The Australian alcohol market

In this appendix, DSICA provides an overview of the latest data on the make-up of the alcohol market in Australia in 2011-12 and provides estimates of revenue from alcohol products in 2013-14.

The alcohol market in Australia remains dominated by beer, which comprised approximately two-fifths (40 per cent) of consumption in 2011-12 (when measured in LPAs) (see Figure A-1). By comparison, spirits and RTDs together comprise only 21 per cent of the market, with RTDs comprising approximately 7 per cent. Traditional cider is the fastest growing category in the alcohol market.

A.1 Alcohol taxation in Australia

Revenue authorities around the world apply two main methods in taxing alcohol products:

- tax on the basis of the volume of alcohol in the beverage (a 'volumetric', or specific rate method); and
- tax on the basis of the value of the product (an 'ad valorem' method).

Australia uses a combination of both methods, depending on the beverage type.

Volumetric systems are usually described as 'excise' duties – that is, taxes which are selective in the product they cover and involve quantification of the product in determining the liability. In the case of alcohol, the quantification is in 'litres of pure alcohol', which is usually abbreviated to either LPA, or lals. Australia applies a volumetric excise duty to beer, spirits, RTDs and flavoured ciders.

Ad valorem taxes can take various forms. Broad-based general purpose taxes such as the GST are usually ad valorem taxes, but in some cases, ad valorem taxes are selectively applied. This is the case with the WET in Australia, which is levied on wine, grape wine products and traditional cider.

Architecture of Australia's tax system

The Australian Government levies tax on alcohol beverages which are more than 1.15 per cent abv. The exact tax arrangements applicable depend on the type of alcohol beverage, as discussed below.

Beer

Beer is subject to seven different volumetric excise duty rates, depending on whether the product is brewed for commercial or non-commercial purposes (home brew), the alcohol content of the beer and the size of the container. There are three 'tiers' of taxation that apply to commercial beer products according to alcohol content, being, low-, mid- and full-strength. The complexity of Australia's beer taxation rates is outlined in Figure A-1.

Figure A-1: Excise duty rates applying to beer products as at 1 February 2013

EXCISE DUTY RATES APPLYING TO BEER PRODUCTS

(as at 1 February 2013)

Product category	Packaged Beer[1]	Draught Beer[2]	Non-Commercial Beer[3]
Low-strength beer (≤ 3° abv)	**$38.70 per LPA**	**$7.73 per LPA**	**$2.72 per LPA**
Mid-strength beer (> 3° abv ≤ 3.5° abv)	**$45.08 per LPA**	**$24.25 per LPA**	**$3.14 per LPA**
Full-strength beer (> 3.5° abv)		**$31.74 per LPA**	
Note that all beer products are subject to a 1.15° abv excise-free threshold			

Note 1: Beer packaged in an individual container not exceeding 48 litres
Note 2: Beer packaged in an individual container exceeding 48 litres
Note 3: Beer produced for non-commercial purposes using commercial facilities or equipment

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Source: Australian Taxation Office

In addition, beer products qualify for an excise-free threshold of 1.15 per cent abv. This means that excise is not payable on the first 1.15 per cent abv of a beer product. The effect of the threshold is to lower the 'effective rate' of excise duty on low and mid-strength beer compared with full-strength beer. There is a strong policy rationale behind this excise-free threshold: it encourages the production and consumption of lower-strength alcohol products.

Draught beer – that is, beer which is sold 'on tap' – pays a lower rate of excise duty than the equivalent packaged beer. To qualify for the 'draught beer' rates of excise duty, the beer must be sold in a container exceeding 48 litres in volume – for example, a keg.

Beer produced for non-commercial purposes also benefits from a concessional excise duty rate.

Wine, grape wine products and traditional cider

Wine, grape wine products and traditional cider are taxed on an ad valorem basis under the WET.

Wine Equalisation Tax is payable by manufacturers, wholesalers and importers of wine, grape wine products and traditional cider as defined. It is collected under the *A New Tax System (Wine Equalisation Tax) Act 1999* (Cth) which is administered by the ATO.

The WET rate is currently 29 per cent and is applied to the wholesale sales price of the product. WET is levied on the last wholesale sale (or equivalent) of a product.

Wine Producer Rebate

A special Wine Producer Rebate was introduced by the Australian Government effective from 1 October 2004. The rebate sought to address the inherent bias created by the WET system in favour of large producers. The maximum rebate amount was increased on 1 July 2006 and now effectively provides an exemption from WET for a producer's first $1.7 million of domestic wholesale sales, meaning that these sales are effectively tax-free. This has the effect of removing WET liability for the wine sales of the large majority of small/medium producers.

The Henry Review identified that around half of all wine producers are unprofitable. It further commented that the Wine Producer Rebate may be acting to prevent proper market responses by discouraging mergers.[160]

Premium Wine Brands (Pernod Ricard) and Treasury Wine Estates have now called for the abolition of the Wine Producer Rebate, stating that it is no longer in the best interests of the wine industry.

[160] Henry et. al., above n 10, 438.

Spirits, Ready-to-Drink products and flavoured cider

All spirits (including RTDs and flavoured cider) are taxed at a single volumetric rate, with the exception of brandy. Brandy pays a lower rate of excise duty, an anomaly which dates back to a policy of providing a taxation concession to the local grape growing industry.

Prior to the tax increase on RTDs in April 2008, RTDs were subject to excise duty at similar rates as packaged beer. The rationale for this approach was that RTDs and beer were beverages of similar alcohol content, marketed in similar ways (i.e. bottles and cans) to a similar demographic (that is, primarily males 24 years and above). This was a deliberate policy decision, implemented with effect from 1 July 2000, at the time of the introduction of the GST.

Spirits and RTDs do not qualify for the 1.15 per cent abv excise-free threshold available to beer, despite spirits and RTDs being subject to a much higher rate of volumetric taxation.

Australia's current alcohol tax arrangements are summarised in Figure A-2 below. It is pertinent to note that:

- imported beer, spirits, RTDs and flavoured ciders are subject to excise-equivalent customs duty at the same volumetric excise duty rate applied to domestically-produced products; and
- imported spirits, RTDs, wine and flavoured cider are subject to a five per cent nuisance customs duty. In the case of spirits, RTDs and flavoured cider, this customs duty is applied in addition to the excise-equivalent customs duty.

Figure A-2: Taxation of alcohol in Australia

TAXATION OF ALCOHOL IN AUSTRALIA

Product Category	Beer	Spirits (including RTDs)	Wine	Traditional Cider	Flavoured Cider
Excise duty (locally produced goods)	✓	✓			✓
Customs duty – ad valorem (imported goods only)		✓	✓		✓
Customs duty – excise-equivalent (volumetric) (imported goods only)	✓	✓			✓
Wine Equalisation Tax (WET)			✓	✓	
Goods and Services Tax (GST)	✓	✓	✓	✓	✓

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Source: DSICA Pre-Budget Submission 2013-14

A.2 The Australian alcohol market in 2011-12 and revenue estimates for 2013-14

DSICA estimates that of the Australian alcohol market in 2011-12 (when measured in LPAs):

- beer comprised 40.2 per cent;
- spirits overall (including RTDs and flavoured cider) comprised 20.5 per cent;
- wine (and grape wine products) comprised 37.9 per cent; and

- traditional cider comprised 1.5 per cent, but was the fastest growing market segment (see Figure A-3).

Figure A-3: DSICA estimate of Australia's alcohol market (2011-12)

Market Share %	Category	Non-GST Revenue %
1.7	Low-strength Beer	1.0
5.3	Mid-strength beer	4.6
33.1	Full-strength beer	32.9
37.9	Wine	12.1
13.8	Spirits	33.0
6.7	RTDs and Flavoured Cider	15.8
1.5	Traditional Cider	0.7

DSICA estimates that the Federal Government will collect approximately $7.6 billion in taxation revenue from the production and consumption of alcohol beverages in the 2013-14 financial year (see Figure A-4). This revenue will comprise:

- $1.9 billion in customs duty;
- $3.0 billion in excise duty;
- $774 million in WET (resulting in $5.7 billion in non-GST revenue); and
- $1.9 billion in GST revenue.

Figure A-4: DSICA estimates of Commonwealth revenue from alcohol taxation (2013-14)

DSICA REVENUE ESTIMATES 2013-14 ($ MILLIONS)

Product Category	Customs Duty*	Excise Duty	WET	Total Non-GST Revenue	GST Revenue	TOTAL	%
Beer low-strength	-	$57	-	$57	$42	$99	1.30%
Beer mid-strength	-	$261	-	$261	$78	$339	4.48%
Beer full-strength	$267	$1,612	-	$1,878	$655	$2,533	33.48%
Total Beer	$267	$1,929	-	$2,196	$775	$2,971	39.26%
RTDs and Flavoured Cider	-+	$891	-	$891	$278	$1,169	15.45%
Brandy	32	$26	-	$59	$8	$66	0.88%
Spirits	$1,587	$192	-	$1,779	$263	$2,043	26.99%
Total Spirits, Brandy, RTDs and Flavoured Cider	$1,619	$1,109	-	$2,729	$549	$3,278	43.32%
Wine	$13	-	$719	$732	$478	$1,210	16.00%
Traditional Cider	-	-	$55	$55	$54	$108	1.43%
Total Wine and Traditional Cider	$13	-	$774	$787	$532	$1,319	17.42%
Grand Total	**$1,899**	**$3,038**	**$774**	**$5,711**	**$1,857**	**$7,568**	**100.00%**

* Customs duty includes both the five per cent ad valorem customs tariff applied to imported spirits, RTDs, wine and traditional and flavoured cider, and excise-equivalent customs duty applied to imported spirits , beer and flavoured cider.

+ It has been assumed that 'Imported' RTDs are imported in the form of bulk spirits then bottled as RTDs in Australia, therefore customs duty on imported RTDs has been included in the duty amount paid by the imported flavoured cider market.

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Source: DSICA Pre-Budget Submission 2013-14

DSICA estimates that the Government will receive $1.9 billion in GST revenue from alcohol products sales in 2013-14. This does not include GST on products bought 'on premise' or across the bar (e.g. draught beer, cocktails and spirits mixed across the bar) which includes a service component, so this is a conservative estimate.

A.3 Weaknesses in the current Australian alcohol tax structure

The current alcohol taxation system fails to adequately satisfy key criteria of a good tax system. This was confirmed in the Henry Review.[161] Furthermore, the system does not assist in achieving good health outcomes and it also distorts the alcohol beverage marketplace by unduly influencing decision making regarding product manufacture and consumption.

The problems of the current taxation regime are demonstrated by:

- a mix of ad valorem (wine, grape wine products and traditional cider) and volumetric taxation rates (beer, spirits, RTDs and flavoured cider);
- a system of ten different rates – only some of which are inflation-indexed;
- automatic bi-annual indexation of spirits, RTD, flavoured cider and beer excise duty rates, resulting in growing disparities in the relativities with wine prices, which are not subject to similar increases;
- some products (i.e. spirits and RTDs) have import duty at ad valorem rates indiscriminately applied based on their country of origin; and
- rebates and tax free thresholds are available to some products (e.g. wine and beer) but not to others.

[161] Henry et. al., above n 10, 431.

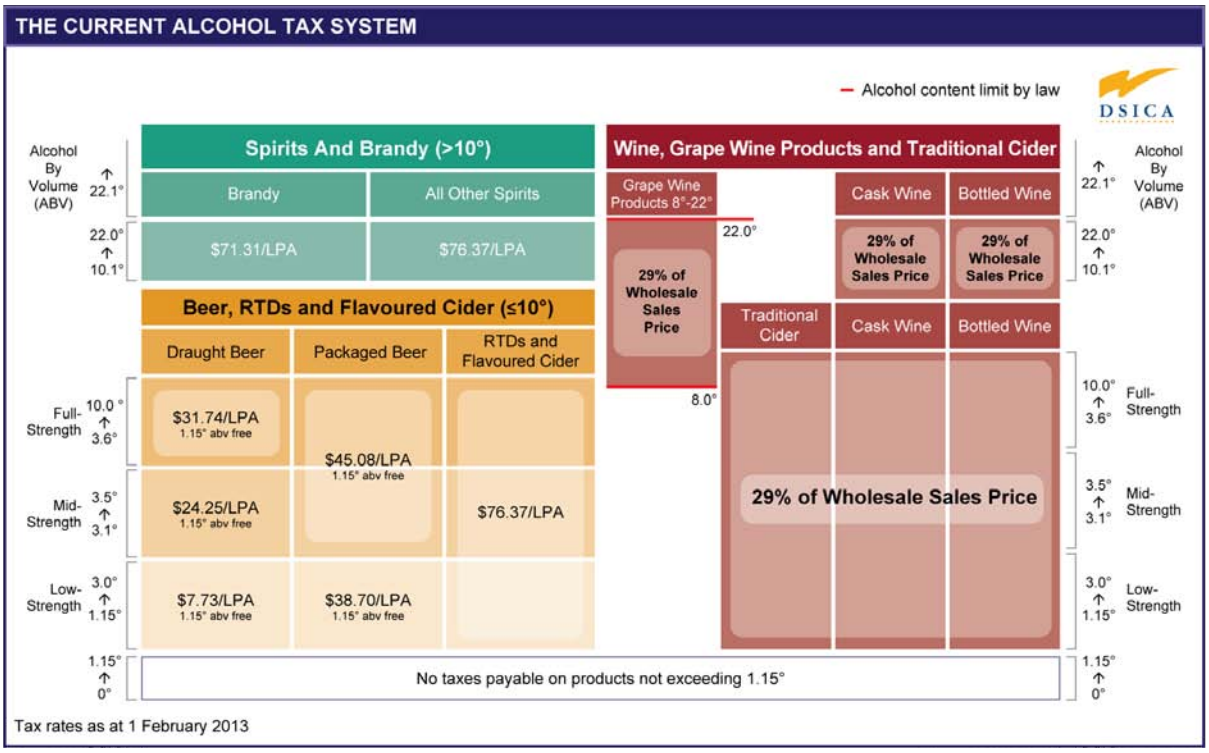
DSICA analysed the many shortcomings of the current alcohol tax system in its submissions to the Henry Review.

A.4 Conceptual framework of Australia's alcohol tax system

DSICA has developed a graphical representation tool to illustrate the current taxation regime for alcohol in Australia (see Figure A-5). The purpose of the graphic is to:

- demonstrate the current complexities and anomalies that exist, particularly in relation to differing tax treatments that apply to products that are substitutable;
- identify opportunities for incremental tax changes to remove unsustainable concessions; and
- act as a framework to assist in the development of alternative models for alcohol taxation reform.

Figure A-5: Australia's alcohol taxation system as at 1 February 2013



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Source: DSICA Pre-budget Submission 2013-14

Key features of Figure A-5 include:

- different beverage categories are listed horizontally across the page, with products levied the ad valorem WET coloured red;
- alcohol by volume content is listed along the left-hand side vertical axis of the graphic;
- there is a deliberate delineation in the graphic at ten per cent abv, as this tends to be the upper limit on 'lower-strength' beverages such as beer and spirit-based RTDs, while most wine, liqueur and spirits products are above this level. The exception to this is the red (ad valorem) category for wine and traditional cider products, which can be of lower alcohol content;
- we note that ten per cent abv is also a key reference point in the excise and customs legislation. It also separates Tax Base 1 from Tax Base 2 in the Treasury's *Tax Expenditures Statement* analysis;[162]

[162] The Treasury, above n 16, 182.

- the placement of the grape wine product category (in red) also reflects the definitional requirement in the *A New Tax System (Wine Equalisation Tax) Act 1999* (Cth) that grape wine products must be between 8 and 22 per cent abv;
- different beverages are then listed in the category boxes in the graphic. Current taxation rates are indicated, as well as whether a particular beverage qualifies for the 1.15 per cent abv excise-free threshold; and
- draught beer is separated as a category as it is subject to different excise duty rates compared with packaged beer.

Figure A-5 shows both the current taxation regime (including its anomalies and complexities) and provides a framework to consider possible tax changes and tax reform options.

B The Australian traditional cider market

B.1 Growth in the range of cider products and brands

There has been very significant growth in the range of traditional (and flavoured) cider products and brands available in bottles, cans and on tap in Australia in recent years. For example, Dan Murphy's recently advertised that they carry over 70 ciders, as demonstrated in Figure B-1.

Figure B-1: Sample cider product advertising – Dan Murphy's (February 2013)

B.2 Australian traditional cider market volumes

Drinks Central (formerly the Liquor Merchants Association of Australia) reports that in 2011-12, **6,133,734 9-litre cases** of traditional cider were consumed (i.e. approximately 2.8 million LPAs), which is up from 4,796,921 9-litre cases in 2010-11.[163]

The data reported by Drinks Central captures all major and leading traditional cider brands, including:

- Strongbow;
- 5 Seeds;
- Mercury;

[163] Drinks Central (formerly known as the Liquor Merchants Association of Australia LMAA)) Database (Domestic Market; July 2011-June 2012; Industry figures converted to 100 per cent).

- Bulmers; and
- Magners.

B.3 Growth rates

Drinks Central reports that the total Australian traditional cider market grew by **27.9 per cent** (in terms of volume) between the 2010-11 and 2011-12 financial years.[164]

For the period 1 July 2012 to 31 December 2012 (i.e. the first six months of the 2012-13 financial year), Drinks Central reports that the total Australian traditional cider market grew by **21.4 per cent** (in terms of volume) compared to the corresponding six months in the 2011-12 financial year.[165]

[164] Ibid.
[165] Ibid (Domestic Market; July 2012-Dec 2012; Industry figures converted to 100 per cent).

C Wine glut analysis

Figure C-1 and Figure C-2 provide a breakdown of the data behind DSICA's analysis of Australian wine stocks, domestic sales, exports and calculated stocks-to-forward sales ratios for both red and white wine products.

C.1 Red wine

Figure C-1: Wine glut analysis data – red wine products

Year	Stocks[166] *million L*	Sales			Stocks-to-Forward Sales Ratio
		Domestic sales[167] *million L*	Exports[168] *million L*	Total *million L*	
1995-96	266.18	68.56	54.82	123.38	1.75*
1996-97	291.51	83.66	68.75	152.41	1.69*
1997-98	363.80	87.38	85.51	172.89	1.82*
1998-99	482.16	99.09	100.80	199.89	1.86*
1999-00	587.18	114.05	144.86	258.91	1.92*
2000-01	767.06	125.56	179.79	305.35	2.11*
2001-02	919.89	130.08	233.23	363.31	2.04*
2002-03	940.71	142.84	307.09	449.93	1.84*
2003-04	1,108.15	147.07	364.08	511.15	1.93*
2004-05	1,189.11	157.44	418.00	575.44	1.95*
2005-06	1,165.37	154.24	454.82	609.06	1.77*
2006-07	955.85	162.11	497.33	659.44	1.59*
2007-08	1,021.87	155.19	446.13	601.32	1.70*
2008-09	1,011.42	159.05	441.51	600.56	1.58*
2009-10	961.01	176.44	462.52	638.96	1.56*
2010-11	909.83	173.08	441.15	614.23	1.53^
2011-12	-	-	-	-	-
2012-13	-	-	-	-	-
2013-14	-	-	-	-	1.36^

**denotes DSICA calculated stocks-to-forward sales ratio[169]*
^ denotes ABARES projection for stocks-to-forward sales ratios in 2010-11 and 2013-14[170]

[166] Australian Bureau of Statistics, *Wine and Grape Industry 2000* (Cat. No, 1329.0) (Australian Government, 2001) (Chapter 6, Stocks of Australian wine and grape juice held by winemakers); Australian Bureau of Statistics, *1329.0 Wine and Grape Industry 2001* (Cat. No. 1329.0) (Australian Government 2002) (Table 15, Inventories of Australian wine and grape juice held by winemakers,); Australian Bureau of Statistics, *Wine and Grape Industry 2006* (Cat. No 1329.0) (Australian Government, 2003) (Table 18, Inventories of Australian wine and grape juice held by winemakers); Australian Bureau of Statistics, *Wine and Grape Industry 2010-11* (Cat. No 1329.0) (Australian Government, 2012) (Table 8, Inventories of Australian wine and grape juice held by wine making businesses).
[167] Australian Bureau of Statistics, *Australian Commodity Statistics 2000* (Australian Government, 2001) (Table 145, Australian domestic wine sales and imports, by type); Australian Bureau of Statistics, *Australian Commodity Statistics 2005* (Australian Government, 2006) (Table 146, Australian domestic wine sales and imports, by type); Australian Bureau of Statistics, *Australian Commodity Statistics 2012* (Australian Government, 2012) (Table 129, Australian domestic wine sales and imports, by type).
[168] Australian Bureau of Statistics, *Australian Commodity Statistics 2000* (Australian Government, 2001) (Table 144, Australian wine exports, by type and major destination); Australian Bureau of Statistics, *Australian Commodity Statistics 2005* (Australian Government, 2006) (Table 145, Australian wine exports, by type and major destination); Australian Bureau of Statistics, *Australian Commodity Statistics 2012* (Australian Government, 2012) (Table 128, Australian wine exports, by type and major destination).
[169] DSICA's methodology for calculating the stocks-to-forward sales ratio is the same as that used by ABARES: Stocks-to-Forward Sales Ratio equals stocks in *year n* divided by total sales (combined domestic sales and exports) in *year n+1*
[170] Gunning-Trant and Shafron, above n 20, 18-19.

C.2 White wine

Figure C-2: Wine glut analysis data – white wine products

Year	Stocks[171] *million L*	Sales			Stocks-to-Forward Sales Ratio
		Domestic sales[172] *million L*	Exports[173] *million L*	Total *million L*	
1995-96	364.61	178.71	66.96	245.67	1.39*
1996-97	377.33	184.80	77.33	262.13	1.31*
1997-98	386.03	189.51	98.95	288.46	1.31*
1998-99	455.04	188.31	105.86	294.17	1.40*
1999-00	452.80	193.04	131.37	324.41	1.29*
2000-01	458.39	199.76	150.02	349.78	1.23*
2001-02	506.57	199.52	173.08	372.60	1.29*
2002-03	497.34	201.63	191.07	392.70	1.21*
2003-04	589.65	207.96	204.68	412.64	1.34*
2004-05	705.54	210.11	228.92	439.03	1.48*
2005-06	768.92	212.56	265.11	477.67	1.53*
2006-07	592.92	218.57	282.54	501.11	1.32*
2007-08	662.82	206.81	243.10	449.91	1.34*
2008-09	669.61	204.22	291.90	496.12	1.32*
2009-10	581.06	219.46	288.40	507.86	1.21*
2010-11	586.33	219.44	260.76	480.20	1.23^
2011-12	-	-	-	-	-
2012-13	-	-	-	-	-
2013-14	-	-	-	-	1.08^

** denotes DSICA calculated stocks-to-forward sales ratio*[174]
^ denotes ABARES projection for stocks-to-forward sales ratios in 2010-11 and 2013-14[175]

[171] Australian Bureau of Statistics, *Wine and Grape Industry 2000* (Cat. No, 1329.0) (Australian Government, 2001) (Chapter 6, Stocks of Australian wine and grape juice held by winemakers); Australian Bureau of Statistics, *1329.0 Wine and Grape Industry 2001* (Cat. No. 1329.0) (Australian Government 2002) (Table 15, Inventories of Australian wine and grape juice held by winemakers,); Australian Bureau of Statistics, *Wine and Grape Industry 2006* (Cat. No 1329.0) (Australian Government, 2003) (Table 18, Inventories of Australian wine and grape juice held by winemakers); Australian Bureau of Statistics, *Wine and Grape Industry 2010-11* (Cat. No 1329.0) (Australian Government, 2012) (Table 8, Inventories of Australian wine and grape juice held by wine making businesses).
[172] Australian Bureau of Statistics, *Australian Commodity Statistics 2000* (Australian Government, 2001) (Table 145, Australian domestic wine sales and imports, by type); Australian Bureau of Statistics, *Australian Commodity Statistics 2005* (Australian Government, 2006) (Table 146, Australian domestic wine sales and imports, by type); Australian Bureau of Statistics, *Australian Commodity Statistics 2012* (Australian Government, 2012) (Table 129, Australian domestic wine sales and imports, by type).
[173] Australian Bureau of Statistics, *Australian Commodity Statistics 2000* (Australian Government, 2001) (Table 144, Australian wine exports, by type and major destination); Australian Bureau of Statistics, *Australian Commodity Statistics 2005* (Australian Government, 2006) (Table 145, Australian wine exports, by type and major destination); Australian Bureau of Statistics, *Australian Commodity Statistics 2012* (Australian Government, 2012) (Table 128, Australian wine exports, by type and major destination).
[174] See footnote 169.
[175] Gunning-Trant and Shafron, above n 20, 18-19.

D Potential Rules of Origin provisions relating to transhipment

The following draft agreement provisions are based on those currently being considered in the context of EU trade negotiations and enable companies to maximise the use of regional hubs and undertake transhipment activities without the goods in question losing their preferential treatment status. DSICA contends that these draft provisions may be considered by the Australian Government in current and future FTA negotiations.

1. *The preferential treatment provided for under the Agreement applies only to products, satisfying the requirements of this Protocol, which are transported directly between the Parties.*

2. *However, the originating products can be transported through the territory or territories of one or more non-Parties for the purpose of transit or temporary storing in warehouses in such territory or territories, and the products have not entered into trade or consumption there.*

3. *The products declared for home use in a Party shall be the same products as exported from the other Party in which they are considered to originate. They shall not have been altered, transformed in any way or subjected to operations other than of unloading, reloading, or operations to preserve them in good condition <u>or other than adding or affixing marks, labels, seals or any other documentation to ensure compliance with specific domestic requirements of the importing Party</u>, prior to being declared for home use. Storage of products or consignments <u>and splitting of consignments</u> may take place where carried out under the responsibility of the exporter or of a subsequent holder of the goods and the products remain under customs supervision in the country(ies) of transit.*

4. *Compliance with the third paragraph shall be considered as satisfied unless the customs authorities have reason to believe the contrary; in such cases, the customs authorities may request the declarant to provide evidence of compliance, which may be given by any means, including contractual transport documents such as bills of lading or factual or concrete evidence based on marking or numbering of packages or any evidence related to the goods themselves.*

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F List of abbreviations

ABARES	Australian Bureau of Agricultural and Resource Economics
ABS	Australian Bureau of Statistics
abv	Alcohol by volume
ACCC	Australian Competition and Consumer Commission
AERF	Alcohol Education and Rehabilitation Foundation
ATO	Australian Taxation Office
the Code	*Australia New Zealand Food Standards Code*
CPI	Consumer Price Index
Customs	Australian Customs and Border Protection Service
DISCUS	Distilled Spirits Council of the United States
DSANZ	Distilled Spirits Association of New Zealand
DSICA	Distilled Spirits Industry Council of Australia
EEGs	Excise equivalent goods
FARE	Foundation for Alcohol Rehabilitation and Education
FTA	Free Trade Agreement
GDP	Gross Domestic Product
GST	Goods and Services Tax
Henry Review	*Australia's Future Tax System* Review
Lal	Litre of pure alcohol
LPA	Litre of pure alcohol
ICS	Integrated Cargo Support
OECD	Organisation for Economic Co-operation and Development
PSP	Periodic Settlement Permission
RTDs	Ready-to-Drink products
TBT	Technical Barriers to Trade
WET	Wine Equalisation Tax
WFA	Winemakers Federation of Australia
WHO	World Health Organization
WTO	World Trade Organization

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