

The Senate

Select Committee on
Red Tape

Effect of red tape on the sale, supply and
taxation of alcohol

Interim report

March 2017

© Commonwealth of Australia 2017

ISBN: 978-1-76010-557-0

This work is licensed under the Creative Commons Attribution-NonCommercial-NoDerivs 3.0 Australia License.



The details of this licence are available on the Creative Commons website: <http://creativecommons.org/licenses/by-nc-nd/3.0/au/>.

This document was printed by the Senate Printing Unit, Parliament House, Canberra

Committee Membership

Committee members

| | |
|---|----------|
| Senator David Leyonhjelm, Chair (from 9 Nov 2016) | LDP, NSW |
| Senator Sam Dastyari, Deputy Chair (from 10 Nov 2016) | ALP, NSW |
| Senator Brian Burston (from 9 Nov 2016) | ON, NSW |
| Senator Stirling Griff (from 16 Feb 2017) | NXT, SA |
| Senator James Paterson (from 24 Nov 2016) | LP, VIC |
| Senator Dean Smith (from 24 Nov 2016) | LP, WA |

Former committee members

| | |
|--|---------|
| Senator Derryn Hinch (from 9 Nov 2016 to 9 Feb 2017) | JP, VIC |
|--|---------|

Committee secretariat

Mr Gerry McNally, Committee Secretary
Ms Cathryn Cummins, Principal Research Officer
Ms Monika Sheppard, Senior Research Officer
Ms Hannah Dunn, Administration Officer

PO Box 6100
Parliament House
Canberra ACT 2600

Ph: (02) 6277 3228
E-mail: redtape.sen@aph.gov.au
Internet: www.aph.gov.au/select_redtape

Table of contents

| | |
|---|------------|
| Committee Membership | iii |
| Recommendations | v |
| Chapter 1 | 1 |
| Introduction | 1 |
| Establishment | 1 |
| Conduct of the inquiry and acknowledgement..... | 1 |
| Scope of the report..... | 2 |
| Two systems for the taxation of alcohol | 2 |
| Sale and supply of alcohol..... | 3 |
| Chapter 2 | 5 |
| Alcohol Red Tape | 5 |
| Alcohol taxation policy | 6 |
| Taxation | 8 |
| Introduction of volumetric taxation..... | 14 |
| Alcohol licensing regimes | 21 |
| Committee view..... | 29 |
| Additional Comments | 31 |
| Coalition Senators | 31 |
| Appendix 1 | 33 |
| Submissions and additional information received by the committee | 33 |
| Submissions received | 33 |
| Answers to questions on notice | 35 |
| Additional information | 35 |
| Appendix 2 | 37 |
| Public hearings | 37 |

Recommendations

Recommendation 1

2.84 The committee recommends that the Australian Government:

- **provide leadership on the issue of alcohol taxation by establishing clear policy objectives for the taxation of alcohol; and**
- **progress the reform of alcohol taxation, including:**
 - **introduction of a single volumetric tax rate across all alcohol products, to be phased in to allow reasonable adjustment;**
 - **enactment of legislative changes to enable monthly settlement of alcohol tax liability for big businesses and quarterly settlement of alcohol tax liability for small businesses, with the Australian Taxation Office to be granted discretion to further extend settlement periods based on trading terms.**

Recommendation 2

2.86 The committee recommends that the Australian Taxation Office move toward the provision of online services as expeditiously as possible, to facilitate applications for manufacturer and storage licences, as well as movement permissions, in respect of excise equivalent goods.

Recommendation 3

2.88 The committee recommends that the Australian Government and COAG support the sale and supply of alcohol through consideration and implementation of evidence-based policies that aim to reduce red tape and promote job creation, and business growth and investment, including:

- **recognition of Responsible Service of Alcohol certification acquired interstate, whether through online or face-to-face training;**
- **streamlining and simplification of liquor licencing systems to reduce the number and types of licences/permits to a minimum viable level;**
- **allowing packaged alcohol to be sold in convenience stores, petrol stations and supermarkets;**
- **abolishing restrictions on trading hours for liquor stores;**
- **shifting resources toward targeted enforcement of existing regulation, rather than a blanket approach of increased regulation for all licensees;**
- **developing liquor licensing fees based on empirical assessments of risk, rather than social perceptions of risk.**

Chapter 1

Introduction

Establishment

1.1 On 11 October 2016, the Senate established the Select Committee on Red Tape (to be known as the Red Tape Committee) to inquire into and report on the effect of restrictions and prohibitions on business (red tape) on the economy and community, by 1 December 2017, with particular reference to:

- a. the effects on compliance costs (in hours and money), economic output, employment and government revenue, with particular attention to industries, such as mining, manufacturing, tourism and agriculture, and small business;
- b. any specific areas of red tape that are particularly burdensome, complex, redundant or duplicated across jurisdictions;
- c. the impact on health, safety and economic opportunity, particularly for the low-skilled and disadvantaged;
- d. the effectiveness of the Abbott, Turnbull and previous governments' efforts to reduce red tape;
- e. the adequacy of current institutional structures (such as Regulation Impact Statements, the Office of Best Practice Regulation and red tape repeal days) for achieving genuine and permanent reductions to red tape;
- f. alternative institutional arrangements to reduce red tape, including providing subsidies or tax concessions to businesses to achieve outcomes currently achieved through regulation;
- g. how different jurisdictions in Australia and internationally have attempted to reduce red tape; and
- h. any related matters.¹

1.2 The Red Tape Committee (committee) decided to conduct its inquiry by focusing on specific areas, commencing with the effect of red tape on the sale, supply and taxation of alcohol (the inquiry).

Conduct of the inquiry and acknowledgement

1.3 The committee advertised the inquiry on its website and wrote to a number of organisations, inviting submissions by 31 January 2017. In response, the committee received 25 submissions to the inquiry, which are listed in Appendix 1.

1 *Journals of the Senate*, No. 9–11 October 2016, pp. 290–291.

1.4 The committee held a public hearing on 24 February 2017 in Sydney. The witnesses who appeared before the committee are listed in Appendix 2.

1.5 The committee thanks the individuals and organisations who made submissions and who gave evidence to assist the committee with its inquiry.

Scope of the report

1.6 Chapter one of this report provides some background information to set the context for the inquiry. Chapter two then examines thematically some of the evidence presented to the committee. The committee intends to draw on this evidence in its final report.

Two systems for the taxation of alcohol

1.7 Australia has two systems for the taxation of alcohol: the excise and excise equivalent customs system, and the wine equalisation tax (WET) system.

1.8 Excise duty is a form of volumetric taxation that is levied on alcohol manufactured or produced in Australia (excluding wine).² It is a commodity-based tax where liability for payment arises at the point of manufacture/production. There are different rates of excise duty, which are indexed biannually according to the Consumer Price Index.³ Excisable alcohol goods include beer, spirits and brandy.⁴

1.9 Excise equivalent customs duty is also a commodity-based tax that applies to imported alcohol (except from countries exempted under free trade agreements) at a rate equivalent to the excise rate that would have applied had the imported alcohol been manufactured or produced domestically.⁵

1.10 In contrast, WET is an ad valorem or value-based tax that applies to domestic and imported wine. 'Wine' is defined as grape wine, grape wine products, fruit or vegetable wine, cider or perry, mead and sake. The rate of WET is 29 per cent of the wholesale sale price of wine.⁶

1.11 According to the Australian Taxation Office, alcohol excise and excise equivalent customs duty generated \$5.4 billion in revenue in 2015–16, and the WET generated \$883 million for the same financial year (totalling approximately \$6.2 billion).⁷

2 Volumetric taxation is tax that is imposed at a fixed rate per unit of volume. For alcohol excise, this is dollars per litre of alcohol content.

3 Statutory excise rates for alcohol were last indexed on 1 February 2017: Australian Taxation Office, *Excise Rates for Alcohol*, <https://www.ato.gov.au/business/excise-and-excise-equivalent-goods/alcohol-excise/excise-rates-for-alcohol/> (accessed 28 March 2017).

4 Australian Taxation Office, *Submission 7*, p. 4.

5 Australian Taxation Office, *Submission 7*, p. 11.

6 Australian Taxation Office, *Submission 7*, p. 14.

7 Australian Taxation Office, *Submission 7*, p. 4.

Sale and supply of alcohol

1.12 In each state and territory, legislation and associated regulations establish a licensing regime for the sale and supply of alcohol. These eight regimes provide for multiple licences/permits with varying conditions, fees, trading hours, et cetera.

Table 1.1: A snapshot of Australia's liquor licensing regimes, availability of licence/permit, as at February 2017⁸

| | Legislation | Number of licence types | Regulatory body |
|----------|---------------------------------------|-------------------------|--|
| WA | <i>Liquor Control Act 1988</i> | 11 + 8 permits | Department of Racing, Gaming and Liquor |
| ACT | <i>Liquor Act 2010</i> | 5 + 2 permits | Office of Regulatory Services |
| NSW | <i>Liquor Act 2007</i> | 7 | Liquor & Gaming NSW |
| NT | <i>Liquor Act</i> | 3 + 1 permit | Department of Attorney-General and Justice |
| Qld | <i>Liquor Act 1992</i> | 7 + 7 permits | Office of Liquor and Gaming Regulation |
| SA | <i>Liquor Licensing Act 1997</i> | 11 | Consumer and Business Services |
| Tasmania | <i>Liquor Licensing Act 1990</i> | 5 + 4 permits | Liquor and Gaming Branch, Department of Treasury and Finance |
| Victoria | <i>Liquor Control Reform Act 1998</i> | 14 + 2 permit | Victorian Commission for Gambling and Liquor Regulation |

8 For more detailed comparisons, see: Institute of Public Affairs, *Submission 4*, Attachment 1, pp. 4–9 and 12–13; Coca-Cola Amatil, *Submission 6*, Attachment 1.

Chapter 2

Alcohol Red Tape

Red tape is a death by a thousand cuts problem. Each individual regulation and each individual piece of red tape can seem quite simple—it's just one extra form or one extra requirement. But it adds up to a really substantial burden over time.¹

2.1 In 2015, the Australian Chamber of Commerce and Industry's *National Red Tape Survey* revealed a considerable regulatory burden of red tape on business. Nearly half the respondents reported that the impact of regulation had prevented them from making changes to grow their business. A quarter said they had spent 11 hours or more each week on compliance and almost half estimated annual compliance costs in excess of \$10 000.²

2.2 According to inquiry participants, Australia's level of alcohol regulation is one of the highest, if not the highest, in the world.³ The committee heard that this regulation unnecessarily burdens business and inhibits its focus on employment and economic objectives.⁴ For example, Diageo Australia, the largest premium spirits company in Australia, submitted:

...an increasingly challenging regulatory landscape and 'red tape' culture is suffocating the industry. Australian distillers and consumers currently pay some of the highest alcohol taxes in the world, while businesses have to decipher a maze of overly-complex bureaucracy which varies significantly across the states.⁵

2.3 Without such regulation, the Australian Liquor Stores Association (ALSA) indicated that the retail liquor industry could contribute further to job creation, and business growth and investment:

The retail liquor industry has a strong capacity to generate additional employment and economic activity from the removal of unnecessary restrictions on trade and competition. Current restrictions have inhibited business investment and stifled opportunities for the existing 47,800 employees, and the many thousands of small businesses who annually contribute over \$17 billion in sales activity and \$5.1 billion in various taxes

1 Dr Chris Berg, Senior Fellow, Institute of Public Affairs, *Committee Hansard*, 24 February 2017, p. 14.

2 Australian Chamber of Commerce and Industry, *2015 National Red Tape Survey*, 2015, p. 5, https://15-acci.cdn.aspedia.net/sites/default/files/uploaded-content/field_f_content_file/acci-2015-national-red-tape-survey_final.pdf (accessed 28 March 2017).

3 Small Bar Association NSW, *Submission 16*, p. 7; Jules Norton Selzer, Public Policy Manager, Diageo Australia, *Committee Hansard*, 24 February 2017, p. 35.

4 Institute of Public Affairs, *Submission 4*, p. 1; Coca-Cola Amatil, *Submission 6*, p. 1; Australian Hotels Association, *Submission 8*, p. 2; Diageo Australia, *Submission 14*, pp. 5 and 6–7.

5 Diageo Australia, *Submission 14*, p. 2.

including excise, [Wine Equalisation Tax], and [Goods and Services Tax] to the Australian economy, before personal income tax or company tax.⁶

Alcohol taxation policy

2.4 As indicated in chapter one, there are complex arrangements for the taxation of alcohol across Australia. In a 2015 report, the Parliamentary Budget Office attributed this complexity to systemic changes that have been made over time in response to policy objectives.⁷ The committee received information and heard views about various policy objectives—such as the raising of revenue, the minimisation of alcohol-related harm, and the provision of support for sections of the alcohol industry.

2.5 What the committee also heard is that there is much confusion about the current policy objective of alcohol taxation. What is the objective of taxing alcohol? Is there more than one objective and if so, how are or how should these objectives be balanced? Is there a disconnect between the policy and achievement of its objective(s)?

2.6 A representative from the Institute of Public Affairs (IPA) highlighted that public policy should be based on an agreed objective with an effective policy mechanism:

The way to make good public policy is to agree on an objective and then ask, 'What's the most efficient way to achieve that objective?'⁸

2.7 The committee is concerned that, in relation to alcohol taxation, the policy objectives are not clearly and consistently articulated, and the policy mechanisms have not necessarily been effective. Some evidence questioned whether taxation should be a policy tool for the minimisation of alcohol-related harm, while others argued that the complex taxation arrangements distort consumption patterns, affecting the raising of revenue.

2.8 Some participants called attention to the need for governments to justify their alcohol policy objectives. In the context of harm minimisation, for example, the committee heard that there is no quantification of the externalities that the policy aims to address. As one witness from the IPA said:

The economics of this say: if there are some social costs and you impose costs on other people, then there is supposedly a role for government to

6 Australian Liquor Stores Association, *Submission 24*, p. 3.

7 Parliamentary Budget Office, *Alcohol taxation in Australia*, Report No. 03/2015, October 2015, p. v, http://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Budget_Office/Reports/Research_reports/Alcohol_taxation_in_Australia (accessed 28 March 2017). Also see: Treasury, *Submission 17*, p. 4; Dr Chris Berg, Senior Fellow, Institute of Public Affairs, *Committee Hansard*, 24 February 2017, p. 16. Also see: Timothy Andrews, Executive Director, Australian Taxpayers' Alliance, *Committee Hansard*, 24 February 2017, p. 23; Satyajeet Marar, Director, MyChoice Australia, *Committee Hansard*, 24 February 2017, p. 23.

8 Darcy Allen, Research Fellow, Institute of Public Affairs, *Committee Hansard*, 24 February 2017, p. 16.

come in and correct those social costs. What we see, particularly for this product—but we see it for many other products as well—is that it is difficult to agree on that initial social cost. The estimates for this particular product range in the billions of dollars.⁹

Effect on business

2.9 The Treasury acknowledged the importance of incentivising business to innovate, operate efficiently and be price competitive.¹⁰ However, the committee notes that stakeholders in the alcohol industry—both large and small business—described alcohol regulation as not conducive to employment and economic objectives.

2.10 If a policy objective is to increase productivity and raise government revenue, then the committee recognises that there is a need for regulation that promotes rather than discourages (or penalises) the alcohol industry. As one witness observed:

...we have a series of proposals which are designed to make it easier to do business, cheaper to do business, more efficient to do business and easier for consumers to access the products they need whilst still accounting for these externalities you keep hearing about...What we really want [is] to move away from the idea of these externalities as an excuse for the government to raise more money and address them for what they actually are—that is, a quantifiable problem with a number of solutions that we can use against them rather than simply, 'We have this business making all this money, let's increase the taxes on it.' What you are ultimately doing is punishing a business for being successful, for creating more commerce and for employing more people.¹¹

Alcohol consumption in the general population, 2013

2.11 Participants observed that Australia has an evolving attitude toward alcohol consumption.¹² According to the Australian Institute of Health and Welfare, the consumption of alcohol in quantities that placed Australians at risk of an alcohol-related disease, illness or injury was stable between 2001 and 2010. However, in the most recent National Drug and Alcohol Survey, there were some noticeable changes:

- there was a decrease in the proportion of people exceeding the [National Health and Medical Research Council] guidelines for lifetime risk by

9 Darcy Allen, Research Fellow, Institute of Public Affairs, *Committee Hansard*, 24 February 2017, p. 16. Also see: Professor Anthony Grabs, Vascular Surgeon, Royal Australasian College of Surgeons, *Committee Hansard*, 24 February 2017, pp. 43 and 45; Dr Chris Berg, Senior Fellow, Institute of Public Affairs, *Committee Hansard*, 24 February 2017, pp. 16–17 and pp. 17–18 (in relation to the types of direct social costs that might need to be considered by government).

10 Treasury, *Submission 17*, p. 3.

11 Satyajeet Marar, Director, MyChoice Australia, *Committee Hansard*, 24 February 2017, p. 21.

12 Timothy Andrews, Executive Director, Australian Taxpayers' Alliance, *Committee Hansard*, 24 February 2017, pp. 21 and 24.

consuming more than 2 standard drinks per day on average, from 20% to 18.2%

- the number of people in Australia drinking at levels that placed them at lifetime risk of an alcohol-related disease or injury in 2013 fell by approximately 250,000 (3.7 million in 2010 down to 3.5 million in 2013)
- fewer people consumed 5 or more standard drinks on a single drinking occasion at least once a month, declining from 5.2 million in 2010 to 5.0 million in 2013. The proportion exceeding these guidelines declined from 29% in 2010 to 26% in 2013
- a higher proportion abstained from drinking alcohol and the proportion rose from 19.9% in 2010 to 22% in 2013.¹³

2.12 Some participants referred to these key health indicators and expressed the view that alcohol causes significant problems for only a small proportion of the Australian population. Accordingly, they suggested that policy should not penalise the alcohol industry with excessive regulation but target support for at-risk drinkers.¹⁴

Taxation

2.13 In 2016, the Organisation for Economic Co-operation and Development reported that Australia was the third highest alcoholic beverage taxing country among its member countries.¹⁵ MyChoice Australia told the committee that these taxes disproportionately affect business, with the 'little guys' most affected:

...a lot of these regulations do not actually hurt the big companies that much. They really hurt the little guys: your small brewers, your small vineyards and your small spirit distillers especially—they face one of the highest spirit taxes in the entire world. To be frank, it is kind of shameful that I can go to America and buy a bottle of Australian distilled spirits for far less than I pay for it in Australia.¹⁶

2.14 This section of the report discusses differential treatment in alcohol taxation, reform of alcohol taxation, regulatory controls for volumes-based duties, and red tape reduction initiatives.

13 Australian Institute of Health and Welfare, *National Drug Strategy Household Survey detailed report*, 2013, p. 35, <http://www.aihw.gov.au/WorkArea/DownloadAsset.aspx?id=60129549848> (accessed 28 March 2017). The 2016 National Drug and Alcohol Survey is currently underway.

14 Distilled Spirits Industry Council of Australia, *Submission 11*, p. 20; Australian Taxpayers' Alliance and MyChoice Australia, *Submission 22*, p. 1.

15 Organisation for Economic Co-operation and Development, *Consumption Tax Trends 2016*, 30 November 2016, Table 4.3 (Taxation of alcoholic beverages), http://www.oecd-ilibrary.org/taxation/consumption-tax-trends-2016/taxation-of-alcoholic-beverages_ctt-2016-table24-en (accessed 28 March 2017). Also see: Jules Norton Selzer, Public Policy Manager, Diageo Australia, *Committee Hansard*, 24 February 2017, p. 29.

16 Satyajeet Marar, Director, MyChoice Australia, *Committee Hansard*, 24 February 2017, p. 21.

Differential treatment in alcohol taxation

2.15 Submitters commented on the level of alcohol taxation in Australia and highlighted the differential treatment of alcohol products. This is largely a consequence of two taxation systems that provide for 16 tax rates and various concessions.¹⁷

2.16 The Parliamentary Budget Office has previously stated that comparison of the tax treatment of alcohol across products is complicated by two factors. First, there is no correlation between the effective tax rates and alcohol content—for example, beverages subject to the highest rates have an alcohol content ranging from very low to very high (spirits, Ready-To-Drinks and expensive wine). Second, the average effective tax rates vary significantly across product types (Table 2.1).

17 There is also an ad valorem customs duty imposed on some imported spirits and Ready-To-Drink products at the rate of five per cent.

Table 2.1: Effective excise rates, quantities and revenue by alcohol type, 2015–2016

| Alcohol type | Effective rate (\$/Lal) ^{(a)(b)} | Quantity (ML) ^(b) | Receipts (\$ million) |
|--|---|------------------------------|-----------------------|
| Non-commercial beer, low-strength | 1.73 | .. | .. |
| Non-commercial beer, mid- to full-strength | 2.56 | 0.1 | 0.3 |
| Draught beer, low-strength | 4.93 | 0.3 | 1.6 |
| Draught beer, mid-strength | 17.19 | 2.1 | 36.5 |
| Draught beer, full-strength | 25.81 | 11.3 | 290.4 |
| Packaged beer, low-strength | 24.66 | 1.2 | 30.0 |
| Packaged beer, mid-strength | 31.96 | 9.8 | 311.6 |
| Packaged beer, full-strength | 36.65 | 46.5 | 1,702.6 |
| Brandy | 75.30 | 0.9 | 66.9 |
| Spirits | 80.62 | 24.8 | 2,001.1 |
| Ready-to-drink beverages | 80.62 | 11.3 | 912.0 |
| Wine, \$15 cask (4L) ^(c) | 2.99 | 13.6 | 40.8 |
| Wine, \$7 bottle ^(c) | 7.97 | 13.0 | 103.8 |
| Wine, \$15 bottle ^(c) | 17.07 | 31.6 | 540.0 |
| Wine, \$40 bottle ^(c) | 45.52 | 3.7 | 169.4 |
| Total alcohol^(d) | 36.50 | 170.0 | 6,207.0 |

Source: PBO estimates based on the 2015-16 Final Budget Outcome, ABS Cat. No. 4307.0, and excise and excise-equivalent customs duty data from the Australian Taxation Office and Department of Immigration and Border Protection, respectively.

(a) The effective rates are averages across 2015-16, so they include the effect of indexation.

(b) Beer quantities include total quantities of alcohol, not just taxable quantities, based on excise and excise-equivalent customs duty data. The statutory excise rates for the eight beer categories have then been adjusted downwards to get an average rate across total alcohol volumes. The PBO has assumed beer has an alcohol content of 2.9 per cent, 3.5 per cent and 5.0 per cent for low-strength, mid-strength and full-strength beer, respectively.

(c) Total wine consumption has been split according to four 'price point' categories, each of which is assumed to represent a typical price within a range of prices. The average effective excise rate for each category is calculated by assuming that the excise rates multiplied by the quantities raises the same amount of revenue as the net Wine Equalisation Tax (WET) raised in 2015-16 (that is, the effective rates have been reduced to take account of the WET producer rebate). All wine is assumed to have an alcohol content of 12.5 per cent for the purposes of these calculations.

(d) Totals may not add due to rounding and the total effective tax rate is rounded nearest 0.1.

.. means not zero but rounded to zero.

Source: Parliamentary Budget Office, *Additional Information* (received 8 March 2017), pp. 3–4.

2.17 Table 2.1 shows also:

- full-strength packaged beer, mid-priced wine and spirits are consumed most (about 60 per cent of alcohol consumption);
- there is very low consumption of certain beverage types (brandy, low-strength and non-commercial beer); and
- the most expensive wine category has a relatively high effective excise rate compared to other wine, due to it incurring a larger tax liability under the Wine Equalisation Tax (WET) system.¹⁸

2.18 Some submitters focussed specifically on the excise and excise equivalent customs system. Their submissions argued that these volumetric-based taxes distort consumption patterns.¹⁹ To illustrate the point, Diageo Australia submitted:

...over 70% of the price of a bottle of Johnnie Walker Red or Bundaberg UP is tax. This creates market distortion where spirits and ready-to-drink (RTDs) beverages, which account for less than 20% of Australian alcohol sales, contribute about 50% of alcohol excise.²⁰

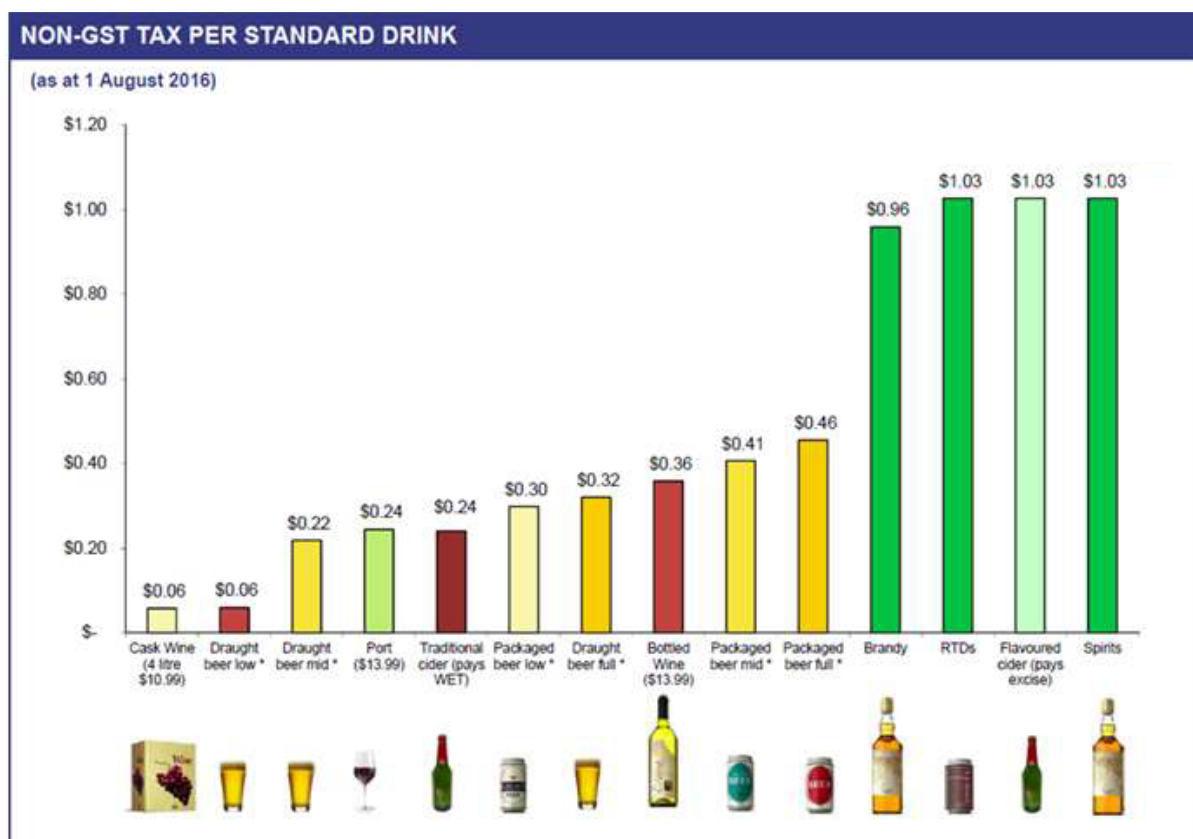
2.19 Similarly, the Distilled Spirits Industry Council of Australia (DSICA) stated that there is great variation in the amount of alcohol tax paid for each standard drink (Table 2.2).²¹

18 Parliamentary Budget Office, Additional Information (received 8 March 2017), p. 5.

19 Distilled Spirits Industry Council of Australia, *Submission 11*, p. 2.

20 Diageo Australia, *Submission 14*, p. 3. Also see: Australian Hotels Association, *Submission 8*, p. 2; Distilled Spirits Industry Council of Australia, *Submission 11*, pp. 9–10.

21 A standard drink is any drink containing 12.67ml of pure alcohol.

Table 2.2: Alcohol (non-GST) tax per standard drink, as at 1 August 2016

Source: DSICA, answer to question on notice (received 7 March 2017), slide 2.

2.20 Alec Wagstaff, Chief Executive Officer of DSICA, added:

...with a lower cost spirit on sale in Dan Murphy's, if you are buying a \$30 bottle of spirits, you are paying in the order of the \$25 to \$26 excise on that spirit...You are paying \$1.06 per standard serve—and there are 23 serves in a 700 mL bottle...for something like a very high-end wine—an extreme, super high-end bottle of wine like Grange—you are probably paying \$200 or \$300 WET on that wine. That is at the extreme end. That is getting down to \$30 per serve of alcohol.²²

2.21 Drilling down even further, DSICA contrasted the treatment of a single product with alcohol content (ginger beer) under the excise and excise equivalent customs system, and the WET system:

...a ginger beer with 4.5 per cent alcohol by volume is taxed as a 'ready to drink' (RTD) at a rate of \$1.01 per standard drink. The tax payable on a case of twelve 500ml bottles is \$21.54 under the excise regime. However, a ginger beer that is nearly identical except that it has 8 per cent or more alcohol by volume is, instead, taxed on its wholesale selling price because it is characterised as a fruit or vegetable wine and subject to the WET regime. At a wholesale price of \$30, the tax payable on a case of twelve 500ml

22 Alec Wagstaff, Chief Executive Officer, Distilled Spirits Industry Council of Australia, *Committee Hansard*, 24 February 2017, pp. 31–32.

bottles is \$8.70 under the WET regime. The producer may also be able to claim the wine producer rebate. This shows the significantly lower rate of taxation that can apply to beverages subject to taxation under the WET regime, despite the beverage containing more alcohol.²³

2.22 The Royal Australasian College of Surgeons commented on the more favourable taxation treatment under the WET system. Its submission considered the WET system as the 'illogical' result of not having developed policy from a set of consistent policy principles:

Originally designed to support small producers in rural and remote areas of Australia, the policy has been undermined by its availability to all producers, with large producers taking advantage of tax loopholes, and New Zealand producers having access to the rebate. The WET is different to other alcohol taxes in that it has no consideration for the alcohol content of the product.²⁴

Reform of alcohol taxation

2.23 Submitters argued that alcohol taxation is inhibiting innovation and growth in small business (primarily the craft spirits industry).²⁵ The Australian Taxpayers' Alliance and MyChoice Australia supported repealing the 'sin tax' on alcohol.²⁶ The Australian Hotels Association (AHA) agreed but observed:

...the community would expect a degree of taxation to apply to the sale of liquor so that behaviour can be directed in a certain way.²⁷

2.24 However, the AHA's National Chief Executive Stephen Ferguson highlighted that this policy objective might not always be achieved by the taxing of alcohol. He cited the 'alcopops' tax as an example of ineffective taxation:

...what that actually did was shift kids from a measured quantity of alcohol in a measured container to the cheaper product which is indiscriminate: buying 1,125 millilitre bottles of spirits instead [and preloading].²⁸

23 Distilled Spirits Industry Council of Australia, *Submission 11*, p. 2. Also see: Alec Wagstaff, Chief Executive Officer, Distilled Spirits Industry Council of Australia, *Committee Hansard*, 24 February 2017, p. 37.

The Australian Taxation Office noted that there is some 'engineering of product' to produce favourable taxation outcomes: Murray Crowe, Principal Adviser, Revenue Group, Commonwealth Treasury, *Committee Hansard*, 24 February 2017, pp. 50–51.

24 Royal Australasian College of Surgeons, *Submission 13*, p. 10.

25 Diageo Australia, *Submission 14*, p. 3.

26 Australian Taxpayers' Alliance and MyChoice Australia, *Submission 22*, p. 6.

27 Stephen Ferguson, National Chief Executive Officer, Australian Hotels Association, *Committee Hansard*, 24 February 2017, p. 3.

28 Stephen Ferguson, National Chief Executive Officer, Australian Hotels Association, *Committee Hansard*, 24 February 2017, p. 3. Also see: Jules Norton Selzer, Public Policy Manager, Diageo Australia, *Committee Hansard*, 24 February 2017, p. 39, who noted a downturn in the organisation's alcopops sales as a result of the tax change.

Potential effect of not reforming alcohol taxation

2.25 Several witnesses commented on the potential effect of not reforming alcohol taxation, noting that changes to excise (including from indexation) affect business margins. Jules Norton Selzer from Diageo Australia told the committee 'there is a limit to how much [a business] can absorb'.²⁹ Similarly, a representative from Coca-Cola Amatil described what happens when those margins become unviable:

...if there is no price realisation opportunity, we have to look for cost reduction strategies, such as closing facilities, integrating facilities or looking for cheaper alternatives in our packaging costs. We are forced to look around the world for better packaging costs. That has an impact on the other parts of industry within Australia. It forces us because we have to deliver a return to run our business. These issues cause us to have to really think differently. We do have issues at times—and we talked about the overnight tax change in 2007 with the RTD tax. I was in the industry at that time with the Fosters business and we had to overnight look at the resourcing, the staff levels and the income because it changed the metrics of our business.³⁰

2.26 Alec Wagstaff from DSICA predicted:

...if you extrapolate 10 years down the track and continue the indexation of the current different rates, you do get to a situation where the critical mass of the industry starts to come into question.³¹

Introduction of volumetric taxation

2.27 Inquiry participants argued that alcohol taxation should target alcohol content, rather than the mechanism by which the alcohol is delivered.³² Further, there were several references to the 2010 Australia's Future Tax System Review (Henry Tax Review), with submitters supporting the recommendation to reform alcohol taxation with the introduction of a volumetric tax for all alcoholic beverages.³³ For example, DSICA submitted:

...the ideal system for alcohol tax is a single volumetric tax rate for all alcohol beverages. Such a tax supports consumers' choices and recognises that all alcohol is the same, regardless of the type of beverage. A single rate

29 Jules Norton Selzer, Public Policy Manager, Diageo Australia, *Committee Hansard*, 24 February 2017, p. 39.

30 Shane Richardson, Managing Director, Alcohol and Coffee, Coca-Cola Amatil, *Committee Hansard*, 24 February 2017, p. 39. Also see: Diageo Australia, answer to question on notice (received 9 March 2017), p. 2.

31 Alec Wagstaff, Chief Executive Officer, Distilled Spirits Industry Council of Australia, *Committee Hansard*, 24 February 2017, p. 39.

32 Dr Chris Berg, Senior Fellow, Institute of Public Affairs, *Committee Hansard*, 24 February 2017, p. 16.

33 Australia's Future Tax System, *Chapter 12: List of Recommendations*, Recommendation 71, https://taxreview.treasury.gov.au/content/FinalReport.aspx?doc=html/publications/papers/Final_Report_Part_1/chapter_12.htm (accessed 28 March 2017).

volumetric tax would be simpler, fairer, and more efficient, ending the discrimination between drinkers.³⁴

2.28 The NT Government expressed the view that the Australian Government should contribute to the measures adopted in various jurisdictions aimed at reducing alcohol-related harm. Its submission also identified a volumetric tax on alcohol as an effective measure:

The Northern Territory Government believes that this Inquiry provides an excellent opportunity for the Federal Government to consider the introduction of a volumetric tax on all alcoholic beverages which would complement the initiatives that state and territory governments have taken within their own regulatory framework around the sale, supply and consumption of liquor and the harms that can result.³⁵

Department response

2.29 In response, a representative from the Australian Taxation Office (ATO) told the committee that the alcohol industry does not have a singular view on what would constitute a 'volumetric tax':

Is that a [tax] that applies to wine or is that a volumetric that applies to all alcohol at a single rate that draws in? I do not believe that that has been thought through by some of the advocates of a volumetric system. I think they have looked at it in their own patch. You could say: 'Wine collects X. What would a volumetric rate be to get X? Beer collects Y. What would a volumetric rate be to collect for beer?' You could split it up or you could go to one.³⁶

2.30 The officer noted that the Henry Tax Review 'had a model of a quantum, and then you set a rate to raise the revenue for that quantum'. However, an integral part of that quantum—the cost of externalities—is not known. Officers expressed reservations about calculating a revenue neutral figure. Their evidence to the committee was that introducing a volumetric tax for all alcoholic beverages would change the dynamics of consumption as well as affecting revenue to an unknown extent:

What I heard today was \$6.2 billion [revenue], based on 2016 figures. A rate set at that would have an effect. Excise is a volumetric tax. The WET is not; it is an ad valorem tax. We know that with wine, if you looked at it from a volumetric perspective, it is going to have an effect. As soon as you

34 Distilled Spirits Industry Council of Australia, *Submission 11*, p. 1. Also see: Campari Australia, *Submission 5*, p. 1; Diageo Australia, *Submission 14*, p. 3; Australian Taxpayers' Alliance and MyChoice Australia, *Submission 22*, p. 7.

35 NT Government, *Submission 25*, pp. 1–2.

36 Murray Crowe, Principal Adviser, Revenue Group, Commonwealth Treasury, *Committee Hansard*, 24 February 2017, p. 53.

move to a volumetric system, whatever your rate, cheap wine becomes dearer and premium wine becomes cheaper...Spirits become cheaper.³⁷

2.31 The committee notes that there are various calculations of a revenue neutral rate of volumetric tax, ranging per litre from \$32.39 (based on 2013–2014 figures)³⁸ to \$36.50 (based on 2015–2016 figures).³⁹ Irrespective of the precise figure, as shown in Table 2.2 above, this rate would be much lower than as is currently levied for brandy, spirits and RTDs.

Regulatory controls for volumes-based duties

2.32 The *Excise Tariff Act 1921* (Cth) and the *Customs Tariff Act 1995* (Cth) set out administrative arrangements and impose controls in relation to excisable goods and excise equivalent goods (EEGs), respectively.

2.33 The ATO explained that this regulation is designed to protect revenue, by maintaining control over goods from the time of manufacture or importation until the tax liabilities are discharged:

- for excisable goods—controls are built into the excise licensing system (such as a manufacturer licence, a storage licence and a movement permission) and the excise payment system (such as periodic settlement permission and pre-payment); and
- for EEGs—controls focus on the importation and movement of goods (such as a Warehouse Declaration, an Ex-Warehouse Declaration, and a customs warehouse licence).⁴⁰

2.34 Treasury acknowledged that alcohol taxation is complex and submitted that the 'upstream suppliers' are better placed than retailers to understand and comply with taxation regulation.⁴¹ However, the committee heard that there is still a significant regulatory burden for manufacturers and importers.⁴²

2.35 The ATO advised that excise administration is undergoing some 'transformational change'. This included the identification and implementation of red tape reductions relating to the administration of excise and excise equivalent goods. One 2014–2016 initiative aimed to simplify the excise renewal process, by issuing a

37 Murray Crowe, Principal Adviser, Revenue Group, Commonwealth Treasury, *Committee Hansard*, 24 February 2017, p. 52.

38 Distilled Spirits Industry Council of Australia, answer to question on notice (received 7 March 2017).

39 Parliamentary Budget Office, Additional Information (received 8 March 2017), p. 5.

40 Australian Taxation Office, *Submission 7*, pp. 4–7 and 12–13.

41 Treasury, *Submission 17*, p. 4. Also see: Stephen Ferguson, National Chief Executive Officer, Australian Hotels Association, *Committee Hansard*, 24 February 2017, p. 6.

42 Distilled Spirits Industry Council of Australia, *Submission 11*, p. 12. Also see: Shane Richardson, Managing Director, Alcohol and Coffee, Coca-Cola Amatil, *Committee Hansard*, 24 February 2017, p. 33 (providing a practical illustration of one complexity).

single renewal form for clients with multiple licences and consolidating licences for the same premises.⁴³

2.36 In its submission, the ATO also described some initiatives that utilise digital technologies. These initiatives align with the Digital Transformation Agenda, which aims to drive innovation and make it easier for individuals and businesses to access government services.⁴⁴

2.37 Coca-Cola Amatil, which makes paper-based applications to the ATO, submitted that 'an online system would be far simpler and [more] cost-effective'. It identified two services that could be provided online: applications for manufacturer and storage licences, and movement permissions.⁴⁵

Time for payment of excise and excise equivalent customs duties

2.38 A specific area of red tape that submitters found particularly burdensome was the time for payment of excise and excise equivalent customs duties. Some submitters highlighted that large businesses must lodge an excise return and pay excise duty on a seven day settlement period. Campari Australia submitted, for example:

This requirement places an administrative and compliance burden on our business in terms of both financial and human resources and is not in general keeping with the traditional end of month payment cycle observed by many businesses in Australia.⁴⁶

Remission of duties

2.39 Excise duty attaches to excisable alcohol from the point of manufacture. One way in which this liability can be extinguished is by remission, which may be granted on application where underbond alcohol has deteriorated or been damaged, pillaged, lost or destroyed.⁴⁷

2.40 The ATO advised that the regulations allow for some limited circumstances in which a remission on excise duty may be made without application. As part of its 'transformational change', the remission process has recently been streamlined for a small number of large alcohol clients, to also grant them pre-approval for the destruction of certain goods.⁴⁸

43 Australian Taxation Office, *Submission 7*, p. 17.

44 The Hon Malcolm Turnbull MP, Minister for Communications, 'Investing in digital transformation', media release, 12 May 2015, http://www.minister.communications.gov.au/malcolm_turnbull/news/investing_in_digital_transformation#.WNBiOUIMRaQ (accessed 28 March 2017).

45 Coca-Cola Amatil, *Submission 6*, p. 2.

46 Campari Australia, *Submission 5*, p. 2.

47 Australian Taxation Office, *Submission 7*, pp. 7 and 10.

48 Australian Taxation Office, *Submission 7*, pp. 10 and 18.

2.41 In relation to excise equivalent customs duty, the ATO submitted that the regulations may allow for a remission of customs duty however an application for remission must still be made.⁴⁹ Diageo Australia told the committee:

Customs still require businesses to lodge remission request[s] prior to destroying any Imported Products, which delays the write off process due to an approval lead time.⁵⁰

2.42 The committee notes that, in 2010, the ATO acquired responsibility for administration of excise equivalent goods, from the Department of Immigration and Border Protection. As one officer from the ATO explained:

Under authority of the Department of Immigration and Border Protection, we already do certain things that are under their banner of responsibility... In relation to the destruction of goods we administer the warehouses and we do allow the remissions, and we do supervise those. They are already under our control.⁵¹

Small business and embryonic distilleries

2.43 Submitters also told the committee that the monthly settlement period is problematic for small businesses with limited working capital. Alec Wagstaff from DSICA explained:

I was lucky enough to meet with Will Edwards from Archie Rose earlier this week at his distillery...One of the things that is particularly crippling for them—it is something that could easily be fixed—is the timing of excise collection. They do get dispensation as small distillers from weekly collection. They are allowed to do it monthly. However, as they grow and they get trading terms with the major retailers, their trading terms with major retailers are typically 60 days. So they are having to fork out the excise before they get the money, and that is a significant impediment for a small business with limited working capital...We would much rather see our members, perhaps the larger distillers, being able to do it monthly and the smaller guys being able to do it quarterly.⁵²

2.44 Similarly, the Craft Beer Industry Association described the burden of compliance for its members:

The ATO requires brewers to reports in litres of alcohol (LALs) sold. To enable this brewers must complete a full stock count each reporting period. They must then convert those sales figures into LALs. Given that brewers' sales are not based on LALS but instead on beer and package type this requires the brewer to formulate their own system which enables them to

49 Australian Taxation Office, *Submission 7*, p. 14.

50 Diageo Australia, *Submission 14*, p. 4.

51 Tim Dyce, Deputy Commissioner, Indirect Tax, Australian Taxation Office, *Committee Hansard*, 24 February 2017, pp. 47–48. Mr Dyce noted that not all members of industry may be cognisant of the delegation.

52 Alec Wagstaff, Chief Executive Officer, Distilled Spirits Industry Council of Australia, *Committee Hansard*, 24 February 2017, p. 31.

convert those sales into LALs taking into account each beer's sales figures and alcohol by volume (ABV) percentage. For those reporting weekly this process must be completed each Monday to allow for payment to be made by 4pm that day. On average each small brewery requires somebody to spend approximately half a day completing and ensuring the accuracy of their return. For those on monthly returns this is a significant administrative burden. For those on a weekly return cycle it is a system that has serious effects on their business.⁵³

2.45 The ATO confirmed that one of its red tape reduction initiatives was to offer certain small businesses 'monthly settlement when they apply for a licence'.⁵⁴ An officer stated that there might be scope to further extend the time for settlement:

...it may be possible to look at using excise liability as the basis for moving to monthly lodgement. We are aware that there are some entities that exceed the \$2 million turnover threshold at this point in time but have relatively very small liabilities that really require them to lodge on a weekly basis.⁵⁵

2.46 However, the ATO also indicated that legislation limited its discretion in relation to payment schedules, and that this would need to be changed.⁵⁶

2.47 The committee notes that frequent remittances are intended to assist government cash flow.⁵⁷ However, the committee considers that this approach disadvantages and strangles small businesses—such as embryonic distilleries—whose cash flow is far more precarious than that of big businesses or the government. Furthermore, the ATO indicated that there is scope to remedy this situation to the mutual benefit of the affected parties:

If capacity to access monthly lodgment were applied to excise liability thresholds it may result in lower compliance costs for business [and] reduced administration for the ATO without having any meaningful effect on government cash flow.⁵⁸

2.48 The ATO and the Treasury stated that they would need to create a policy case to change the timing of payments. However:

...with the appropriate legislative authority or even discretion, we could perhaps end up with some better outcomes for business because we are

53 Craft Beer Industry Association, *Submission 20*, p. 2.

54 Australian Taxation Office, *Submission 7*, p. 17.

55 Andrew McIver, Assistant Commissioner, Indirect Tax, Australian Taxation Office, *Committee Hansard*, 24 February 2017, p. 47.

56 Andrew McIver, Assistant Commissioner, Indirect Tax, Australian Taxation Office, *Committee Hansard*, 24 February 2017, p. 49.

57 Andrew McIver, Assistant Commissioner, Indirect Tax, Australian Taxation Office, *Committee Hansard*, 24 February 2017, p. 47.

58 Australian Taxation Office, *Submission 7*, p. 19. Also see: Murray Crowe, Principal Adviser, Revenue Group, Treasury, *Committee Hansard*, 24 February 2017, p. 54.

basing it on risk rather than an absolute threshold... we believe that there are organisations that we could move to monthly settlements that currently do not qualify.⁵⁹

2.49 The committee would welcome such a development and urges the Australian Government to consider a risk threshold that provides for all small businesses. In this regard, the committee suggests that a threshold of, say, \$50 000 would be too minimalistic and exclude a large number of small businesses that should be supported.

Red tape reduction initiatives

2.50 In 2010, several key administrative functions relating to EEGs were transferred from the Department of Immigration and Border Protection to the ATO.⁶⁰ An ATO representative explained 'those shifts occurred because industry thought it would be more efficient to deal with one organisation rather than two'.⁶¹

2.51 DSICA acknowledged that this arrangement reduced the administrative burden for the alcohol industry.⁶² However, the committee heard that large businesses still need several full time equivalent employees to manage the burden of compliance. For example, Coca-Cola Amatil submitted:

The [alcohol compliance] manager oversees compliance requirements like ensuring liquor licence numbers are correctly captured, customs and excise duty is acquitted, customs and excise licences are renewed, liquor licences are renewed and that staff involved in sale of alcohol have Responsible Service of Alcohol (RSA) qualifications, relevant to the state or states that they work in.⁶³

2.52 DSICA submitted that there are further opportunities to reduce red tape in alcohol regulation.⁶⁴ In particular, it supported the introduction of legislation to provide the ATO with full responsibility for all matters relating to excisable goods and EEGs.⁶⁵

2.53 As mentioned, many of the functions identified by DSICA are already performed by the ATO.⁶⁶ In addition, the committee heard that there might be difficulties with the proposal due to constitutional considerations, as well as what might be appropriate:

59 Murray Crowe, Principal Adviser, Revenue Group, Treasury, *Committee Hansard*, 24 February 2017, p. 54.

60 Australian Taxation Office, *Submission 7*, p. 11.

61 Tim Dyce, Deputy Commissioner, Indirect Tax, Australian Taxation Officer, *Committee Hansard*, 24 February 2017, p. 47. Also see p. 48.

62 Distilled Spirits Industry Council of Australia, *Submission 11*, p. 12.

63 Coca-Cola Amatil, *Submission 6*, p. 3. Also see: Diageo Australia, *Submission 14*, p. 4.

64 Distilled Spirits Industry Council of Australia, *Submission 11*, pp. 12–13.

65 Distilled Spirits Industry Council of Australia, *Submission 11*, p. 13.

66 Andrew McIver, Assistant Commissioner, Indirect Tax, Australian Taxation Office, *Committee Hansard*, 24 February 2017, p. 48.

...there are some things that are border control functions—and there is certainly expertise at a border control level to do that—and there are some things that probably sit within our domain and area of expertise.⁶⁷

2.54 Representatives from DSICA supported gradual change in the area of alcohol taxation reform: 'the distilled spirits industry is not advocating overnight, radical change that disrupts industry'.⁶⁸ Based on information from the ATO and the Treasury, the committee notes that red tape reduction initiatives are slowly progressing.

...Treasury has not received a package from [the ATO] to say that these are the things that we definitely want to explore. Nothing has been costed and it certainly has not progressed past that. It is under a deregulation flag or banner. The Treasury is very interested in deregulation.⁶⁹

Alcohol licensing regimes

2.55 Chapter one of this report referred to the eight alcohol licensing regimes that regulate the sale and supply of alcohol throughout Australia. In total, there are no fewer than 62 different types of licence and 24 different types of permit available among the regulatory regimes. Inquiry participants commented that the variation within and across these regimes is unnecessarily complex and costly, particularly for businesses that operate in more than one jurisdiction.⁷⁰

2.56 ALSA provided the following example of how variable regulations affect grocery stores in three jurisdictions:

In Queensland a grocery retailer would only be able to hold a liquor store licence if it owned a hotel licence.

In New South Wales a grocery retailer can have a contained liquor offer within a grocery store but the sale is only able to be processed from a licensed register. Anyone under the age of eighteen will need to purchase their groceries from an unlicensed register.

In Victoria a grocery retailer can have a contained liquor offer within a grocery store and any register can process the sale.⁷¹

2.57 Diageo Australia summarised the effect of multiple regulation on a business:

Navigating this maze of regulation takes a huge amount of man hours and is off-putting for a licensee to set up or expand a business. Furthermore, there

67 Tim Dyce, Deputy Commissioner, Indirect Tax, Australian Taxation Officer, *Committee Hansard*, 24 February 2017, p. 48.

68 Alec Wagstaff, Chief Executive Officer, Distilled Spirits Industry Council of Australia, *Committee Hansard*, 24 February 2017, p. 32.

69 Murray Crow, Principal Adviser, Revenue Group, Commonwealth Treasury, *Committee Hansard*, 24 February 2017, p. 48.

70 Institute of Public Affairs, *Submission 4*, Attachment 1, p. 13; Coca-Cola Amatil, *Submission 6*, p. 2; Winemakers' Federation of Australia, *Submission 9*, p. 11; Diageo Australia, *Submission 14*, pp. 4–5; Australian Liquor Stores Association, *Submission 24*, p. 7.

71 Australian Liquor Stores Association, *Submission 24*, p. 7.

is the ever-increasing cost of obtaining or maintaining a licence. This borders on the ridiculous.⁷²

Reduce regulation by focussing on enforcement

2.58 Some submitters argued that there should be as little regulation as possible, with a greater emphasis on enforcement for the smaller number of licensees who contravene alcohol licensing laws. The IPA noted that regulation is regularly predicated on public safety grounds.⁷³ However, inquiry participants told the committee that alcohol consumption patterns are changing, with more Australians drinking responsibly and 'trading up' to drink 'better rather than more'.⁷⁴ Further, the effect of too much regulation is to penalise business. Diageo Australia stated:

[These businesses] are being treated as 'guilty until proven innocent'. This in turn puts people off coming out in the city of Sydney, which at the moment needs all the support it can get to attract patrons. A better approach would be to impose sanctions on those failing to comply rather than burden everyone.⁷⁵

2.59 Similarly, the Small Bar Association NSW submitted:

A responsible retailer of alcohol simply will not, and is not legally permitted to, serve an intoxicated person, or a person at risk of intoxication by further service. In our view, enforcement of this core principle, which is universally supported and implemented among our membership, addresses the majority of public concerns around service of alcohol beverages.⁷⁶

2.60 The IPA argued that, if the government wishes to restrict autonomous individuals from engaging in trade, then the government should bear 'the burden of proof':

If it is determined there is a deviation (i.e. there is a 'market failure' supposedly identified) from some objective, then the question is still comparatively institutional: how should the objective be met? For liquor licensing, this could come in several potential ways. The general approach adopted across Australia...is the 'licence first' approach, followed generally by penalties for defections on the existing regulations. The alternative option, however, is to apply lighter touch regulation before the fact, and direct those resources towards detecting and enforcing defections from

72 Diageo Australia, *Submission 14*, p. 5.

73 Institute of Public Affairs, *Submission 4*, Attachment 1, p. 15.

74 Distilled Spirits Industry Council of Australia, *Submission 11*, p. 8; Diageo Australia, *Submission 14*, p. 2 (these submission encouraged policy that addresses drinking culture and behaviour); Martin O'Sullivan, President, Small Bar Association NSW, *Committee Hansard*, 24 February 2017, p. 5; Shane Richardson, Managing Director, Alcohol and Coffee, Coca-Cola Amatil, *Committee Hansard*, 24 February 2017, p. 36.

75 Diageo Australia, *Submission 14*, p. 7.

76 Small Bar Association NSW, *Submission 16*, p. 3.

existing regulation. This approach would be a reduction in red tape for Australian businesses.⁷⁷

Bias in licence fee structures

2.61 Submitters and witnesses expressed concern with multiple aspects of the alcohol licensing regimes, including a perceived bias in licence fee structures.⁷⁸ Most licence fees are based on the calculation of 'risk' associated with a commercial activity, taking into consideration factors such as venue capacity, number of patrons and trading hours. These considerations may be less relevant to off-premises licences, leading to lower licence fees. On the other hand, some participants argued that there are illogical outcomes for on-premises licences. For example, the Australian Taxpayers' Alliance and MyChoice Australia submitted:

In the ACT, a liquor store operating near a shopping centre and which closes at 9 pm pays a significantly higher license fee than a nightclub operating in the CBD precinct which is open until 4 am. In NSW, a family business operating 18 liquor stores across the state with no recorded infractions is required to close at 10 pm and pays 140% more in fees than a large capacity nightclub venue in the Sydney CBD precinct that operates until 3 am.⁷⁹

2.62 The IPA questioned the rationale underpinning tiered fee structures, which it argued are not clearly linked to public health and safety. Its submission expressed the view that 'the burden should be placed on government when it wishes to levy fees higher than the cost it takes to administer the licences'.⁸⁰

2.63 In addition, the IPA recommended that licence fees should be lowered and 'flattened' to incentivise businesses to grow and increase their business activities and trade.⁸¹ The Australian Taxpayers' Alliance and MyChoice Australia agreed, considering that the current fee structures are designed to favour revenue raising:

...it effectively punishes rather than rewards businesses engaging in a greater magnitude of trade and commerce. A flat fee may lead to smaller venues paying slightly more than they currently do. However, it would still amount to a considerable overall reduction of red tape as well as an incentive for smaller businesses to expand and grow. Fee indexation would

77 Institute of Public Affairs, *Submission 4*, Attachment 1, p. 15.

78 Institute of Public Affairs, *Submission 4*, p. 1; Coca-Cola Amatil, *Submission 6*, p. 2; Australian Liquor Stores Association, which commented that making a licence application often involves the need to obtain financial and legal advice: *Submission 24*, pp. 4–6.

79 Australian Taxpayers' Alliance and MyChoice Australia, *Submission 22*, p. 5.

80 Institute of Public Affairs, *Submission 4*, Attachment 1, p. 13. The submission notes that licence fees are increasingly justified on the basis of progressive redistribution (that is, larger venues pay more).

81 Institute of Public Affairs, *Submission 4*, Attachment 1, p. 14.

provide a safeguard against arbitrary or revenue raising-driven fee increases in the future.⁸²

Responsible Service of Alcohol certification

2.64 At present, the eight alcohol licensing regimes have different approaches to RSA certification (Table 2.3).

Table 2.3: RSA Certification, states and territories, as at February 2017

| | Is RSA mandatory? | Are interstate RSA certificates recognised? | Online accreditation |
|----------|-------------------|---|----------------------|
| WA | Yes | Yes | Yes |
| ACT | Yes | Yes, subject to a refresher course with an approved trainer | Yes |
| NSW | Yes | No (and its certification is not recognised in other jurisdictions) | Yes |
| NT | Yes | Yes | Yes |
| Qld | Yes | Yes, if issued within the last three years | Yes |
| SA | No | Yes | No |
| Tasmania | Yes | Yes, subject to a refresher course with an approved trainer | Yes |
| Victoria | Yes | Yes, if issued within the last three years <u>and</u> obtained in face-to-face training <u>and</u> a face-to-face bridging course is required | No |

Source: Coca-Cola Amatil, Submission 6, Attachment 1, p. 1.

2.65 A number of participants raised the issue of RSA certification.⁸³ The committee heard that, although the principles are common throughout Australia, not all jurisdictions recognise RSA certification obtained in another jurisdiction.⁸⁴ For example:

There are no significant differences between the principles governing responsible service of alcohol from one state or territory to the next. Individuals possessing adequate training and experience in alcohol service

82 Australian Taxpayers' Alliance and MyChoice Australia, *Submission 22*, p. 5.

83 Responsible Service of Alcohol training is a compulsory form of training for people involved in the sale or supply of alcohol on licenced premises. It aims to prevent intoxication, drink driving and underage drinking.

84 Campari Australia, *Submission 5*, p. 2; Australian Hotels Association, *Submission 8*, p. 2; Small Bar Association NSW, *Submission 16*, p. 7.

in one state must waste time and money to obtain the same qualification when they work in a different state. This hurts workers while resulting in a less competitive labour market and fails to encourage the availability of workers in rural or remote areas where there may be shortages.⁸⁵

2.66 From an employer's point of view, Campari Australia agreed:

For companies such as ours who have employees involved in the sale, supply or service of alcohol on licensed premises across several Australian jurisdictions, this means the respective employees are required to hold multiple RSA certifications. We believe this is an unnecessary duplication and an administrative and compliance burden on our business in terms of both cost and time completing multiple courses comprising of essentially identical content.⁸⁶

Restricted hours and conditions of sale

2.67 Some submitters and witnesses referred particularly to regulations in certain jurisdictions that have introduced restricted hours and conditions for the sale of certain alcohol products, in particular spirits and Ready-To-Drink products.⁸⁷ For example, the Small Bar Association NSW highlighted that its members cannot serve spirits or liqueurs without a mixer after 12.00am or in measures exceeding 30ml:

We have a bar in Sydney called the Baxter Inn...and that is one of the best whisky bars in the world—not just in Australia, but in the world. It is world renowned. One of the issues they have had recently is that if you bought a nip, a 300 millilitre shot, of 60-year-old Talisker whisky that would cost between \$80 and \$100. You had to have that with Coke. That is ridiculous. If someone comes in and they are willing to spend that much money on a nip of world-class whisky they should be able to have it any way they want. That is where these layers of legislation in New South Wales are getting a little bit crazy. After certain hours you cannot have a classic martini or a Negroni, because they do not fit within what New South Wales says is responsible service of alcohol.⁸⁸

2.68 In the Queensland context, DSICA highlighted an inconsistent outcome of these restrictions:

A set of restrictions such as those in the Queensland legislation makes no sense: a drinker in a typical Queensland pub or club at 1am can order a bottle of wine (approx. 7 standard drinks) or a jug of beer (approx. 4 standard drinks), but not a single serve of whisky on ice (1 standard drink).⁸⁹

85 Australian Taxpayers' Alliance and MyChoice Australia, *Submission 22*, p. 3. Also see: Australian Liquor Stores Association, *Submission 24*, p. 11.

86 Campari Australia, *Submission 5*, p. 2. Also see:

87 New South Wales and Queensland.

88 Martin O'Sullivan, President, Small Bar Association NSW, *Committee Hansard*, 24 February 2017, p. 8. Also see: Small Bar Association NSW, *Submission 16*, p. 5.

89 Distilled Spirits Industry Council of Australia, *Submission 11*, p. 7.

2.69 Submitters questioned the rationale for this type of 'micro-regulation', stating that the restrictions—aimed at reducing alcohol-fuelled violence—are premised on false assumptions about the biology of consumption, and concepts of causation and correlation.⁹⁰ Diageo Australia, for example, contended:

...the choice of beverage for at-risk drinkers varies significantly across all age cohorts and gender. A wide ranging-piece of research conducted by academics worldwide studied the link between harm and different drinks in 19 different countries and found that there is no increased risk from any particular type of drink...A standard gin and tonic—or vodka and soda—contain less alcohol than a glass of wine or a schooner of beer ...Scientifically all alcohol has the same effects on the human body—it is how much a person drinks and their response to alcohol that matters, not what type of drink.⁹¹

2.70 Some submitters argued that over-regulation has affected competition (particularly among small businesses), and interfered with economic growth and consumer choice. The Small Bar Association NSW, for example, stated that its members have not been free to operate, evolve and improve their businesses:

The service restrictions...deprive consumers of choice, and deprive the highly-respected, Australian domestic craft distilling industry of what should be the primary showcase for their premium products. NSW licensees are hindered in their capacity to develop their businesses, to distinguish themselves among their peers and compete, and to premiumise [sic] consumption and the atmosphere in their premises.⁹²

2.71 Similarly, Diageo Australia submitted:

Not only does [over-regulation] undermine the businesses environment and restrict consumer choice, blanket measures such as lockouts or spirit restrictions fail to offer a targeted approach to deal with the harmful drinking of specific, at-risk groups. Rather, these blunt approaches penalise the vast majority of Australians who drink responsibly and do not cause others harm, because of the behaviour of a tiny minority.⁹³

2.72 The committee notes that the NSW Bureau of Crime Statistics and Research recently reviewed the effect of NSW's lockout and last drink laws. The statistics show a significant decrease in non-domestic assaults in the affected areas (Kings Cross and Central Business District entertainment precincts),⁹⁴ however this corresponded with

90 Distilled Spirits Industry Council of Australia, *Submission 11*, pp. 5–7; Small Bar Association NSW, *Submission 16*, p. 4.

91 Diageo Australia, *Submission 14*, p. 5. Also see: Australian Taxpayers' Alliance and MyChoice Australia, *Submission 22*, p. 10, which stated policy responses to alcohol-related violence focus on symptoms rather than the underlying causes of violence.

92 Small Bar Association NSW, *Submission 16*, p.7.

93 Diageo Australia, *Submission 14*, p. 3.

94 Also see: Professor Anthony Grabs, Vascular Surgeon, Royal Australasian College of Surgeons, *Committee Hansard*, 24 February 2017, p. 41.

an increase in assaults in other areas (such as Newtown, Bondi Junction and Double Bay).⁹⁵

Packaged alcohol sector

2.73 Some submitters commented on the high level of regulation affecting the packaged alcohol sector. For example, ALSA submitted:

The retail packaged liquor sector is one of the most highly regulated sectors and one where there is considerable duplication and overlap by varying levels of government. ALSA estimates ongoing compliance costs exceed \$6 million per annum.⁹⁶

2.74 In particular, the Australasian Association of Convenience Stores Limited highlighted one aspect of regulation—the non-participation of many small businesses in the packaged alcohol market:

Existing regulations which prevent convenience stores from participating in the packaged alcohol market are stifling competition, preventing new employment opportunities from being created, and acting as a barrier to significant benefits to the national economy.⁹⁷

2.75 The Australasian Association of Convenience Stores Limited estimated that this regulation costs well over \$500 million in annual sales.⁹⁸ APCO Service Stations Pty Ltd made similar comments:

Allowing convenience stores and petrol stations to sell packaged alcohol would generate millions of dollars in sales in Australia, particularly for small to medium size entrepreneurial business owners. Currently, the packaged liquor market is dominated by the big two supermarkets, being Coles Wesfarmers and Woolworths.⁹⁹

2.76 APCO Service Stations continued:

...the deregulation of the sale of packaged alcohol is essential to increasing competition in the market, ultimately benefiting the consumer and small business. Australia is one of few countries in the world that prevents the sale of alcohol through convenience stores, with many American states and European countries allowing the sale of liquor (in some form) from petrol stations and convenience stores. The red tape which prevents Australian

95 N. Donnelly, S. Poynton & D. Weatherburn, *The effect of lockout and last drinks laws on non-domestic assaults in Sydney*, Crime and Justice Bulletin No. 201, February 2017, http://www.bocsar.nsw.gov.au/Pages/bocsar_news/cjb201-Assaults-increase-around-Lockout-Zones.aspx (accessed 28 March 2017).

96 Australian Liquor Stores Association, *Submission 24*, p. 4.

97 Australian Liquor Stores Association, *Submission 24*, p. 3.

98 Australasian Association of Convenience Stores Limited, *Submission 1*, p. 3.

99 APCO Service Stations Pty Ltd, *Submission 19*, p. 3.

convenient stores and petrol stations from doing so is hampering business productivity and [is] detrimental to consumers.¹⁰⁰

2.77 The AHA did not agree with these views, with a representative stating that deregulation would 'splinter' the mature package alcohol market.¹⁰¹

2.78 Nonetheless, the committee considers that competition should be encouraged to enable the participation of small business and to promote consumer choice. In this regard, the committee notes especially the evidence of Timothy Andrews, Executive Director of the Australian Taxpayers' Alliance:

I do not believe it is necessarily the role of government to put in restrictions to prevent one particular business from losing market share. If a business in a free market ends up losing market share from competition then perhaps that is an incentive...to innovate, to strive and to provide better services. The government should not be picking and choosing winners and trying to preserve one business at the expense of another.¹⁰²

Reduction of alcohol red tape

2.79 Most jurisdictions have recently implemented,¹⁰³ or are implementing,¹⁰⁴ red tape reduction initiatives for the sale and supply of alcohol. However, the committee heard that there has been little progress in reducing complex regulation. In particular and for example:

- there remains a universal need to streamline and simplify the number of licences/permits, to enable business to better understand licence conditions and ensure compliance; and
- there are more instances of 'micro-regulation' that create even greater complexity for business.¹⁰⁵

2.80 DSICA submitted that greater complexity occurs as a result of 'bolt on regulation often as a knee jerk reaction to a specific incident'. Its submission argued that this complexity is counterproductive to achieving policy objectives, as the

100 APCO Service Stations Pty Ltd, *Submission 19*, p. 2.

101 Stephen Ferguson, National Chief Executive Officer, Australian Hotels Association, *Committee Hansard*, 24 February 2017, p. 1;

102 Timothy Andrews, Executive Director, Australian Taxpayers' Alliance, *Committee Hansard*, 24 February 2017, p. 22. Also see: Satyajeet Marar, Director, MyChoice Australia, *Committee Hansard*, 24 February 2017, p. 23, who noted that consumers go to liquor stores, bars, clubs, et cetera for different reasons.

103 SA Government, *Submission 3*; ACT Government, *Submission 23*; Institute of Public Affairs, *Submission 4*, Attachment 1, pp. 10–11 (Western Australia, South Australia, the Australian Capital Territory and New South Wales).

104 The Treasurer (Victoria), *Submission 10*; NT Government, *Submission 25*, p. 1 (Victoria, Queensland and the Northern Territory).

105 Institute of Public Affairs, *Submission 4*, Attachment 1, p. 13. Also see: Australian Taxpayers' Alliance and MyChoice Australia, *Submission 22*, p. 5.

incomprehensible regulation makes compliance and enforcement more costly and difficult.¹⁰⁶

The debate on the need for regulation and further action is generally at odds with the facts—the vast majority of Australian drinkers enjoy alcohol in a responsible manner and its sale provides a bedrock for an ever-increasing range of hospitality businesses across the country. Where regulation has been simplified we have seen the rapid development of diverse vibrant and innovative businesses creating welcoming destinations for locals and tourists alike. Where the heavy hand of regulation has been recklessly applied, we have seen exactly the opposite.¹⁰⁷

Committee view

2.81 This committee was established to inquire into the effect on the economy and community of restrictions and prohibitions on business. In relation to the sale, supply and taxation of alcohol, the committee heard that red tape continues to affect business—particularly small business—with consequent impacts on job creation, business growth and investment.

2.82 At the Commonwealth level, the committee heard that alcohol taxation is overdue for reform and that this was the recommendation of the Australian Government's 2010 inquiry into Australia's Future Tax System Review. The committee considers that the Australian Government should provide clear leadership on this issue by establishing clear policy objectives for the taxation of alcohol and by progressing taxation reform.

2.83 Based on evidence to the inquiry, the committee accepts that two areas of such reform should include the introduction of a volumetric tax and extended periods for the settlement of excise liability, to provide for equitable, transparent and practical taxation in the industry.

Recommendation 1

2.84 The committee recommends that the Australian Government:

- **provide leadership on the issue of alcohol taxation by establishing clear policy objectives for the taxation of alcohol; and**
- **progress the reform of alcohol taxation, including:**
 - **introduction of a single volumetric tax rate across all alcohol products, to be phased in to allow reasonable adjustment;**
 - **enactment of legislative changes to enable monthly settlement of alcohol tax liability for big businesses and quarterly settlement of alcohol tax liability for small businesses, with the Australian Taxation Office to be granted discretion to further extend settlement periods based on trading terms.**

106 Distilled Spirits Industry Council of Australia, *Submission 11*, p. 2.

107 Distilled Spirits Industry Council of Australia, *Submission 11*, p. 20.

2.85 The committee notes that the ATO has simplified the excise renewal process for manufacturer and storage licences. The committee recognises that red tape associated with this process could be further reduced if licence applications could be made online. The committee acknowledges that a digital platform is yet to be developed but recommends that the ATO move toward the provision of online services as expeditiously as possible to facilitate interactions between government and the alcohol industry.

Recommendation 2

2.86 The committee recommends that the Australian Taxation Office move toward the provision of online services as expeditiously as possible, to facilitate applications for manufacturer and storage licences, as well as movement permissions, in respect of excise equivalent goods.

2.87 The committee acknowledges that most governments are currently involved in red tape reduction initiatives. Recognising that there is a need to reduce red tape at all levels, and mindful of the benefit of complementary initiatives, the committee makes the following recommendation based on evidence received throughout the inquiry.

Recommendation 3

2.88 The committee recommends that the Australian Government and COAG support the sale and supply of alcohol through consideration and implementation of evidence-based policies that aim to reduce red tape and promote job creation, and business growth and investment, including:

- **recognition of Responsible Service of Alcohol certification acquired interstate, whether through online or face-to-face training;**
- **streamlining and simplification of liquor licencing systems to reduce the number and types of licences/permits to a minimum viable level;**
- **allowing packaged alcohol to be sold in convenience stores, petrol stations and supermarkets;**
- **abolishing restrictions on trading hours for liquor stores;**
- **shifting resources toward targeted enforcement of existing regulation, rather than a blanket approach of increased regulation for all licensees;**
- **developing liquor licensing fees based on empirical assessments of risk, rather than social perceptions of risk.**

**Senator David Leyonhjelm
Chair**

Additional Comments

Coalition Senators

Coalition Senators make the following additional comments on the interim report. The Senate Select Committee on Red Tape's motivation in addressing the considerable regulatory burden of red tape on business and industry by focussing specifically on the effect of red tape on the sale, supply and taxation of alcohol, has identified numerous issues with the excessive level of regulation on Australian alcohol. The effect of differential treatments in alcohol taxation, compounded with each state and territory having their own legislation, associated regulations, and licensing regimes for the sale and supply of alcohol, show the complexities of the current system. Noting that this is an interim report, Coalition Senators will provide additional comments on these issues once the final report has been tabled.

Senator Dean Smith

Senator James Paterson

Appendix 1

Submissions and additional information received by the committee

Submissions received

1. Australasian Association of Convenience Stores Limited
2. McCusker Centre for Action on Alcohol and Youth
 - a. Attachment 1
 - b. Attachment 2
 - c. Attachment 3
 - d. Attachment 4
 - e. Attachment 5
 - f. Attachment 6
 - g. Attachment 7
3. SA Government
 - a. Attachment 1
 - b. Attachment 2
 - c. Attachment 3
4. Institute of Public Affairs
 - a. Attachment 1
5. Campari Australia Pty Ltd
6. Coca-Cola Amatil
 - a. Attachment 1
7. Australian Taxation Office
8. Australian Hotels Association
9. Winemakers' Federation of Australia
10. The Treasurer (VIC)
11. Distilled Spirits Industry Council Australia
12. Public Health Association of Australia
 - a. Attachment 1
 - b. Attachment 2
 - c. Attachment 3
 - d. Attachment 4
 - e. Attachment 5

13. Royal Australasian College of Surgeons
14. Diageo Australia
15. National Alliance for Action on Alcohol
16. NSW Small Bar Association
17. The Treasury
18. Australian Grape and Wine Authority
19. APCO Service Stations Pty Ltd
20. Craft Beer Industry Association
21. Department of Industry, Innovation and Science
22. Australian Taxpayers' Alliance & MyChoice Australia
 - a. Supplementary submission
23. ACT Government
24. Australian Liquor Stores Association Inc.
25. NT Government

Answers to questions on notice

1. Answers to questions taken on notice by Institute of Public Affairs at a public hearing in Sydney on 24 February 2017
2. Answers to questions taken on notice by Distilled Spirits Industry Council of Australia Inc. at a public hearing in Sydney on 24 February 2017
3. Answers to questions taken on notice by Australian Hotels Association at a public hearing in Sydney on 24 February 2017
4. Answers to questions taken on notice by Diageo Australia at a public hearing in Sydney on 24 February 2017
5. Answers to questions taken on notice by MyChoice Australia & Australian Taxpayers' Alliance at a public hearing in Sydney on 24 February 2017
6. Answers to questions taken on notice by Royal Australasian College of Surgeons at a public hearing in Sydney on 24 February 2017
7. Answers to questions taken on notice by the Treasury at a public hearing in Sydney on 24 February 2017

Additional information

1. Additional information provided by Australian Taxpayers' Alliance on 9 March 2017
2. Additional information provided by Parliamentary Budget Office on 8 March 2017

Appendix 2

Public hearings

Sydney NSW, 24 February 2017

Members in attendance: Senators Burston, Dastyari, Griff, Leyonhjelm

Witnesses

ALLEN, Mr Darcy, Research Fellow, Institute of Public Affairs

ANDREWS, Mr Timothy, Executive Director, Australian Taxpayers' Alliance

BERG, Dr Chris, Senior Fellow, Institute of Public Affairs

BURSTON, Mr Matthew, Manager, Regulatory Reform Unit, Commonwealth Treasury

CHAPMAN, Mr Allan, NSW State Manager, Royal Australasian College of Surgeons

CROWE, Mr Murray, Principal Adviser, Revenue Group, Commonwealth Treasury

DYCE, Mr Tim, Deputy Commissioner, Indirect Tax, Australian Taxation Office

FERGUSON, Mr Stephen, National Chief Executive Officer, Australian Hotels Association

GATFIELD, Mr Chris, Manager, Policy and Research, Australian Hotels Association New South Wales

GRABS, Associate Professor Anthony, Vascular Surgeon, Royal Australasian College of Surgeons

GREEN, Mr John, Director, Liquor and Policy, Australian Hotels Association New South Wales

MARAR, Mr Satyajeet, Director, MyChoice Australia

McIVER, Mr Andrew, Assistant Commissioner, Indirect Tax, Australian Taxation Office

NORTON SELZER, Mr Jules, Public Policy Manager, Diageo Australia

O'SULLIVAN, Mr Martin, President, Small Bar Association of New South Wales

RICHARDSON, Mr Shane, Managing Director, Alcohol & Coffee, Coca-Cola Amatil

TRIGGS, Ms Rachel, General Counsel, Australian Grape and Wine Authority

WAGSTAFF, Mr Alec, Chief Executive Officer, Distilled Spirits Industry Council of Australia Inc.

