

## **Alcohol Report a Public Policy Fiasco**

As an example of poor quality public policy analysis, the Law Commission's report on alcohol regulation will be a landmark for years to come.

A 514-page doorstop, it ranks with the 1988 report of the Royal Commission on Social Policy which was dead on arrival.

A fundamental government requirement for policy decisions on regulation is a competent regulatory impact statement (RIS).

The Treasury, now the lead agency on regulation, met with the Law Commission on its review and outlined the government's regulatory analysis requirements. The Commission's July 2009 Issues Paper stated that an RIS would indeed be included in the final report.

We now find that "The Law Commission and the Minister of Justice have agreed that this report will not contain such a statement but one will be prepared by the Ministry of Justice for any bill that the Minister of Justice introduces."

Lacking an RIS, the report fails to establish that its proposals are in the public interest.

Taxpayers should regard this as a scandalous state of affairs. The Commission has had 21 months to do its work, the cost of the exercise has been large, and yet ministers and MPs still don't have a solid analytical base on which to make decisions. Was the Commission simply not up to the job?

The basic problem with the report is its failure to give weight to the interests of the large number of responsible consumers of alcohol while focusing on effective strategies to curb misuse by a small minority.

Thus it proposes to hit all consumers with a massive increase in excise tax on the basis of a report by an Australian consultancy firm which has

recently been strongly criticised by University of Canterbury economist Eric Crampton (on his blog *Offsetting Behaviour*). The Commission did not engage with the heavyweight analysis in the 2001 (McLeod) Tax Review which concluded that excise tax levels on alcohol were unjustified.

Sensibly, the government has rejected the tax recommendation. Raising excise taxes on everyone to curb abuse by a minority would be like raising petrol tax to prevent some motorists from speeding.

Similarly, the proposals to ultimately ban all alcohol advertising rely heavily on one anti-alcohol source, and omit its crucial finding that there is a “lack of conclusive evidence from the studies of restrictions of alcohol advertising.” Can a recommendation to ban Tui billboards be taken seriously?

The Commission has also backflipped on the drinking (purchase) age, proposing it should be increased to 20. Nowhere in the report are we told that this would align New Zealand with only 11 other countries. Eighty-one (including Australia) have a minimum drinking age of 18, twelve (including Belgium, Germany, Norway and Spain) set the age at 16, and seventeen have no drinking age at all.

As one young expatriate New Zealander wrote, “New Zealand’s current arrangements make a very real difference to quality of life for someone at my age and stage, and mucking them up is just another reason not to move back.”

In saying this, he had in mind not just the drinking age but the equally backward-looking recommendations to restrict shop trading hours and closing times for bars.

Since liberalisation, drinking has become generally more civilised. How will restoring restrictions encourage more responsible behaviour?

People have enjoyed alcohol long before Dionysius was a boy, and some have used it to excess. Moreover, there have always been temperance and anti-alcohol lobbies which were disproportionately represented, compared with the mass of consumers, in submissions to the Commission.

But we know that heavy regulation and even prohibition does not work. Drug prohibition doesn't stop drug abuse.

In a recent paper on drugs which proposed a measure of liberalisation, the Law Commission wrote, "we do not support more general use of the law for paternalistic reasons ... If someone, fully aware of the risks involved, chooses to participate in an activity that risks causing harm only to themselves, most of us would respect the right to make that choice."

Yet much of the alcohol report reeks of paternalism rather than emphasising personal and social responsibility, harms to others and enforcement of existing law.

The few recommendations in this area are commendable, but they could have been taken much further.

Why, for example, do we tolerate repeat drink driving offences without cancelling licences, naming and shaming offenders more prominently, using ignition interlocks, confiscating vehicles in serious cases and jailing recidivists?

The Ministry of Justice and Treasury will now have to do the analysis which the Commission failed to produce.

For example, it is highly unlikely that a competent analysis would support the Commission's recommendation to retain monopoly licensing trusts.

The report was framed by the previous government and reflects its government-knows-best approach.

When it comes to decisions, it's hard to see the present government accepting much of it.

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