



Submission to the

Department of Trade and Industry

on the

DRAFT LIQUOR AMENDMENT BILL, 2016

17 November 2016

Introduction

1. The Catholic Parliamentary Liaison Office (CPLO) welcomes the opportunity to comment on the Liquor Amendment Bill.

The CPLO is an office of the Southern African Catholic Bishops' Conference. It is tasked with liaising between the Church and Parliament/Government, commenting on issues of public policy, and making submissions on legislation.

2. The Catholic Church, along with many other faith bodies and civil society groups, is deeply concerned about the abuse of alcohol in South African society, and about the harm that such abuse causes to individuals, families, and wider society. We are also very much aware of the economic costs of alcohol abuse. The Church runs a number of programmes in various parts of the country dealing with alcohol abuse – these range from issues around foetal alcohol syndrome to the treatment and counselling of adults addicted to alcohol.

3. In broad terms, we would support legislative amendments that genuinely attempt to address alcohol abuse. However, we are also mindful that this is an area where it is tempting for government to enact cosmetic measures, designed to show that “something is being done”, while the measures themselves may not actually achieve anything. It is not at all clear, for example, that banning things that are considered undesirable is a worthwhile step. Sometimes it merely increases the allure and attraction involved.

4. With this in mind we comment on the following specific provisions:

Age

5. A number of clauses (2; 3; 4) involve increasing the age at which people can consume, deal in, or purchase alcohol, and the age-group at which advertising can be targeted, from 18 to 21. This is inconsistent with the approach of numerous other laws, in terms of which 18 is considered the age at which people can make independent decisions and assume adult responsibilities. Voting, driving, consenting to medical treatment, entering into contracts, and

getting married are but a few of them. There does not appear to be any rational basis upon which to argue that someone who is entitled to drive a car or to decide to undergo an operation is inherently incapable of enjoying alcohol responsibly and reasonably.

6. It must also be asked why the age of 21 has been chosen, instead of 25 or 30 or some other arbitrary age.

7. Consideration must also be given to the serious consequences of potentially criminalising large numbers of adults between the ages of 18 and 21. Such criminalisation, not to mention serious fines or even imprisonment, could follow if – for example – a 20-year-old were to claim to be 21, or were to brew their own homemade beer; both of these actions would violate the amended section 10 of the principal Act.

8. In any event, the mere fact that South Africa has a persistent problem with excessive alcohol consumption, by both minors and adults, indicates that the existing punitive measures in the Liquor Act 59 of 2003 are not serving their purpose. There is no reason to assume that merely raising the legal age for alcohol consumption will mean that people's attitude to excessive consumption will suddenly change.

9. Far more needs to be done to educate people about responsible alcohol use, and to ensure that as children grow up, they are not led to think that upon reaching a certain age (be it 18 or 21) it is acceptable to drink carelessly or in ignorance of the health and social consequences. Once again, raising the legal age contributes nothing by way of education or awareness.

Advertising

10. We support the requirement in clause 2(b) that liquor advertisements should reflect the harmful effects of liquor abuse.

11. We also support the proposal in clause 2(a) that advertising should not misrepresent the age of persons participating in the advertisement. However, for the reasons set out above, we do not support the raising of the target age from 18 to 21.

12. We suggest that the accent should be on *responsible* advertising. There seems to be little point in prohibiting the distribution of ‘pamphlets’ containing liquor advertising, but not newspapers or magazines that contain it. Likewise, it is not clear what the point is of prohibiting billboards with alcohol advertising near ‘junctions, street corners or traffic circles’ but allowing them along highways or railway lines.

Auxiliary Conditions for Registration

13. Clause 7 introduces provisions concerning the location of premises where alcohol can be distributed. The proposed new section 13A(1)(c) refers to “premises near public transport facilities” without in any way defining “near”. It would be impossible to comply with this provision.

14. A similarly vague provision is found in the proposed 13A(2), which speaks of “schools, place [*sic*] of worship, recreational facilities, rehabilitation or treatment centres, residential areas, public institutions and other like amenities.” What is a “like amenity” and how is it supposed to be identified?

15. A far more serious objection to the proposed 13A(2), however, is that it prohibits the manufacturing, distribution or retail sale of alcohol anywhere within a radius of 500 metres of the places and facilities mentioned above. This is completely impractical. It is impossible to think of anywhere, except the open countryside, where alcohol could be made or sold. This provision is likely to drive the distribution and sale of alcohol, and possibly its manufacture, “underground” and potentially into the hands of criminals and racketeers.

16. A further objection is that, the way the amendment is framed, it is not clear whether the 500m prohibition would apply to existing hotels, restaurants, bottle-stores, and manufacturing plants; or just to new ones. If the latter, then it would appear to offend against the principle of equality before the law that, for example, a new restaurant in a shopping mall would not be able to sell alcohol while its established competitors would be.

17. This is not just a matter of legal fairness. Section 13(c) of the principal Act is clearly aimed at ensuring that the liquor industry contributes to economic growth and development. It refers to the promotion of new entrants to the industry; job creation; diversity of ownership; and

efficiency and competition in the industry. The proposed 13A, by making it practically impossible for new manufacturers or retailers to operate, undermines the purposes of s 13(c) and will cause economic harm without necessarily bringing about any benefits.

Conclusion

18. Given the seriousness of the alcohol abuse problem in our country, it is urgently necessary that effective steps be taken to raise levels of education and awareness, and to engender a responsible approach to alcohol consumption. We question whether the measures we have objected to above will have any such effect. On the contrary, many of them seem likely to play into the dangerous misapprehension that alcohol is a very desirable “forbidden fruit” that suddenly becomes accessible at a certain age.

19. A more considered and mature approach to the problem would result in legislation that is more practical and reasoned, which better balances the need for regulation with the need for economic progress, and which properly respects the freedom of adults to make decisions for themselves.

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