



22 November 2005

Mr Gary Banks
Chair
Regulation Taskforce
PO Box 282
BELCONNEN ACT 2616

Dear Mr Banks

DSICA Submission to Taskforce on Reducing the Regulatory Burden on Business

Firstly let me commend the Commonwealth Government for its commitment to tackling the issue of 'red tape'. To that end, DSICA welcomes the Government's announcement of a special taskforce to identify practical options for alleviating the compliance burden on business from Commonwealth Government regulation.

By way of background, the Distilled Spirits Industry Council of Australia Inc (DSICA) is the peak national organisation representing manufacturers and importers of distilled spirits and liqueurs in Australia. A key element of DSICA's mission is to promote a fair and competitive market place for our members. This obviously includes a marketplace in which unnecessarily burdensome, complex or redundant regulatory imposts are eliminated or minimised as far as practicable.

DSICA's attached submission raises three issues within the context of the Taskforce's Review. These relate to:

- Quarantine requirements as administered under the Imported Food Inspection Program (IFIP). DSICA recommends that Customs/AQIS amend its selection methodology to factor in a risk assessment approach that focuses on smaller importers where the risk of non-compliance with the Program's objectives is greater;
- Customs procedures/taxation provisions – single administration of 'excise equivalent goods'. DSICA strongly believes that there should be one government agency with responsibility for the taxation administration of excise equivalent goods (currently there are two); and
- Taxation provisions – collection of excise duty and GST. DSICA believes significant compliance efficiencies would arise if relevant entities were permitted to report excise obligations on the Business Activity Statement.

"Free The Spirit"

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Reg. No. A0025393P

Once again, DSICA thanks you for providing us with the opportunity to comment on the current regulatory arrangements and to suggest a number of regulatory reforms that we consider would improve the efficiency of government administration as well as reducing the regulatory burden on DSICA members.

Please do not hesitate to call me on telephone (03) 9696 4466 if you wish to discuss any aspect of this correspondence in greater detail.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Gordon Broderick', with a horizontal line underneath the name.

Gordon Broderick
Executive Director

Taskforce on Reducing the Regulatory Burden on Business

Submission by the Distilled Spirits Industry Council of Australia Inc (DSICA)

1. Executive Summary

- DSICA welcomes the opportunity to make this submission to the Taskforce on Reducing the Regulatory Burden on Business (the Taskforce).
- It is apparent from our review of the *Taskforce Issues Paper* that the Taskforce is focussed on a number of key issues, two important ones being:
 - addressing regulation that imposes an *unnecessary* burden on business; and
 - examining areas that can provide significant immediate gains to business.
- The issues canvassed by DSICA in this submission fall clearly within these parameters.
- Implementing solutions to relieve the unnecessary burden imposed by the regulations concerned will generate significant immediate gains to our members and their customers.

2. Who is DSICA?

- The Distilled Spirits Industry Council of Australia Inc (DSICA) is the peak industry body representing the interests of distilled spirit manufacturers and importers in Australia.
- DSICA's goals are:
 - to create informed political and social environments that recognise the benefits of moderate alcohol intake and provide opportunities for balanced community discussion on alcohol issues; and
 - to ensure public alcohol policies are soundly and objectively formed, that they include alcohol industry input, that they are based on the latest national and international scientific research and that they do not unfairly disadvantage the spirits sector.

3. Regulatory issues impacting DSICA members

- DSICA has three issues that it wishes to raise in the context of the Taskforce's Review.
- These issues are examined in detail in the attached Appendix. We have divided the Appendix into two parts.
 - Part A deals with regulations which are unnecessarily burdensome or complex regulation; and
 - Part B deals with regulations duplicated in other jurisdictions.
- Furthermore, the table in each part has been structured to address the issues raised in the *Taskforce Issues Paper* for that particular item.
- The three issues are briefly summarised below. The technical issues regarding each are addressed in Appendix 1.

3.1 Quarantine requirements: Imported Food Inspection Program (IFIP)

- The IFIP specifies, amongst other things, the rate at which imported food (which includes alcohol beverages) must be referred by the Australian Customs Service (Customs) to the Australian Quarantine and Inspection Service (AQIS) for inspection.

- For example, 5% of all consignments of “random surveillance food” must be referred for inspection (which includes alcohol beverages).
- The costs imposed by this regulation are outlined in Appendix 1, and include holding costs, storage costs, inspection fees and personnel time.
- As imports by DSICA members of spirits products comprise a significant proportion of the total quantity of spirits products imported nationally, the total number of times members’ consignments are selected for inspection far outweighs the number of times smaller importers are selected.
- DSICA members who import spirits products are affiliates of global beverage companies which have rigorous production and packaging standards worldwide. The reputation and status of their products depends upon a consistent quality in product and packaging. DSICA therefore suggests that these standards warrant, from a risk assessment approach, a lower absolute rate of inspection of its members’ products.
- On the other hand, imports by smaller operators who often do not have comparative internal controls, we suggest, represent a greater threat of non-compliance with the relevant Regulations. In fact, in some instances we have detected, there is blatant disregard for the Regulations, and yet because the inspection regime is skewed to favour small importers, many of these instances are not detected by Customs/AQIS under their selection methodology.
- DSICA recommends that Customs/AQIS amend its selection methodology to factor in a risk assessment approach that focuses on smaller importers where the risk of non-compliance is greater.

3.2 Customs Procedures/Taxation provisions: Single administration of “excise equivalent goods”

- Since the transfer of functional responsibility for excise from Customs to the Australian Taxation Office (ATO) in 1998, DSICA members have had to deal with two Government agencies (ie Customs and the ATO) in relation to dealings with “excise equivalent goods” (EEGs).
- EEGs refer to imported alcohol products (including spirits and Ready to Drink alcohol beverages – RTDs), imported tobacco and imported petroleum. That is, imported goods which would have been subject to excise duty if they had been produced in Australia.
- The necessity to deal with two agencies has occurred because responsibility for excise collection on locally produced EEGs lies with the ATO, while policy and administration for imported EEGs, has remained with Customs.
- DSICA strongly believes that there should be **one government agency** with responsibility for the taxation administration of EEGs.
- DSICA recommends:
 - that the **Australian Taxation Office** should be the agency responsible for the collection of revenue and the administrative arrangements relating to EEGs; and
 - that the **Australian Customs Service** continue to have responsibility for border management aspects regarding the importation of excise equivalent goods.

3.3 Taxation provisions: collection of excise duty and GST

- The advent of the Business Activity Statement (BAS) has seen many Commonwealth taxes grouped for the purposes of periodic reporting. The following taxes are presently covered by the BAS:
 - Goods and Services Tax (GST);

- Pay As You Go – Withholding;
 - Pay As You Go – Instalments;
 - Fringe Benefits Tax;
 - Luxury Car Tax;
 - Wine Equalisation Tax.
- All of the above taxes are administered by the ATO.
 - DSICA believes significant compliance efficiencies would arise if relevant entities were permitted to report excise obligations on the BAS.
 - As responsibility for excise resides with the ATO, there are no “cross-agency” issues involved in moving excise reporting onto the BAS, which is also administered and lodged with the ATO. See Appendix 1 for more details.

4. Other perspectives on DSICA issues

Unnecessary burden of regulation

“Rather the key question for the Taskforce is whether the regulation and/or its implementation imposes unnecessary, and therefore avoidable burden on business;”

Regulation Taskforce, Taskforce Issues Paper, p. 4

- The issues raised by DSICA in this submission can be resolved without the removal of regulation – it is the way regulation is applied that causes DSICA concern.
- DSICA submits that the unnecessary burden of regulation in each case is in the manner of application of the regulation. In each case, if the regulations were applied a different way, or were administered by one agency or in a more streamlined manner, then the *unnecessary* burden would be removed.
- DSICA therefore believes that each issue it has raised falls within the Taskforce’s terms of reference.

Immediate gains

“The Taskforce will examine and report on areas where regulatory reform can provide significant immediate gains to business.”

Joint Press Release, Prime Minister and Treasurer, 12 October 2005

- Another focus area for the Taskforce is to identify areas where significant immediate gains can be made for business.
- DSICA suggests that solutions for issues 3.1 and 3.2 above could be implemented in a very short space of time, and thereby provide immediate gains. Issue 3.3 would probably require a degree of consultation and integration of systems to allow implementation, but nonetheless is achievable.

22 November 2005

Contact: For further information, contact Gordon Broderick, Executive Director, DSICA, 03 9696 4466

**Taskforce on Reducing the Regulatory Burden on Business:
Submission by the Distilled Spirits Industry Council of Australia Inc (DSICA)**

A: Regulations which are unnecessarily burdensome or complex regulation

| Burden | Cost to business | Why unnecessary? | Reforms/Alternatives |
|--|---|---|---|
| <p>Quarantine procedures: Imported Food Inspection Program (IFIP) - Imported Food Control Act 1992; Imported Food Control Regulations 1993</p> <p>Relevant Regulation: Regulation 14 of the Imported Food Control Regulations</p> <p>Administering agencies: Australian Quarantine & Inspection Service (AQIS); Australian Customs Service (Customs).</p> <p>Object of regulation: Section 2A of the Imported Food Control Act 1992 specifies the object of the Act to be “ to provide for the compliance of food imported into Australia with Australian food standards and the requirements of public health and safety”.</p> | | | |
| <p>Regulation 14 of the <i>Imported Food Control Regulations</i> specifies at what rate food must be referred by Customs for inspection by AQIS. For example, 5% of all consignments of “random surveillance food” must be referred for inspection (note that section 3 of the Imported Food Control Act defines “food” to include any substance capable of being used</p> | <p>DSICA or its members have not sought to quantify the dollar or opportunity costs of the burden imposed by this Regulation.</p> <p>However, outlined below is a summary of how this regulation imposes a cost on business:</p> <ul style="list-style-type: none"> • Delays in moving shipments | <p>DSICA does not believe that the Regulation per se is unnecessary; rather the way it is applied should be changed.</p> <p>As outlined earlier, DSICA members who import products are globally affiliated companies who subscribe to rigorous internal controls to ensure their products meet relevant local</p> | <p>Common sense would dictate that AQIS and Customs weight their shipment selections so as to encompass a relatively higher proportion of these smaller operators. Accordingly, the number of inspections imposed upon DSICA members, and the subsequent costs they incur, would be reduced/alleviated. A flat 5%</p> |



| Burden | Cost to business | Why unnecessary? | Reforms/Alternatives |
|--|---|--|--|
| <p>as food or <i>drink</i>).</p> <p>The unnecessary burden placed on DSICA members under this Regulation arises due to the fact that DSICA members import the majority of spirits products into Australia. This means that DSICA members are subject to a disproportionately large absolute/nominal number of inspections. Smaller importers, who often do not have the quality control procedures in place to comply with requirements of the Imported Food Control Act, suffer a proportionately lower absolute number of inspections.</p> | <p>represents a “holding cost” of stock which cannot be moved to suppliers/retailers;</p> <ul style="list-style-type: none"> • Storage fees while shipments are inspected; • Fees specified under the Imported Food Inspection Act; • Personnel costs of staff dealing with AQIS/Customs officers and Customs Brokers regarding particular shipments referred for inspection; • Personnel costs where staff deal with the implications of products imported by “unauthorised importers” which does not comply with labelling standards (ie. non-compliant product bearing the name of DSICA members often leads to consumer inquiries to members even though the DSICA member was not the importer of the non-compliant | <p>regulation. Their imports, due to their market coverage, constitute a large proportion of the total number of imports of relevant product into Australia.</p> <p>By contrast, smaller importers may not have in place similarly rigorous controls (some we suggest are blatantly disregarding Australian law) and therefore should be subject to a higher rate of inspection than legitimate operators who have a high “success rate” with product subject to the IFIP.</p> <p>DSICA therefore submits that the disproportionately high numbers of inspections to which our members’ products are subject are unnecessary given the relative risk profiles of large, international operators compared to smaller importers.</p> | <p>inspection rate of all imported spirits products should be replaced with a risk management approach which takes account of the past history of each company.</p> <p>We suggest that this could be easily accommodated in the Customs import entry system by having as a weighting parameter the importer of the shipment.</p> <p>DSICA would be happy to work with AQIS and Customs to arrive at an appropriate selection process methodology that is more risk focussed along the lines discussed.</p> |



| Burden | Cost to business | Why unnecessary? | Reforms/Alternatives |
|--------|--|------------------|----------------------|
| | <p>product).</p> <p>These costs are ultimately effectively absorbed as an overhead cost of operating a business. To the extent possible, they are passed on in the form of higher prices to the consumer for the goods imported by the DSICA member. DSICA would argue that:</p> <ul style="list-style-type: none"> • Its members are forced to absorb unnecessarily high overhead costs due to the Regulation; and • Consumers are forced to pay higher prices, to the extent that costs are passed on. | | |

B: Regulations duplicated in other jurisdictions

| How does duplication occur | Attempts to address duplication | Solutions |
|---|---|---|
| <p>Customs procedures/Taxation provisions: single administration of “excise equivalent goods”</p> <p>Relevant Regulation: Part IV, <i>Excise Act 1901</i>; Part V, <i>Customs Act 1901</i></p> <p>Administering agencies: Australian Customs Service (Customs); Australian Taxation Office (ATO)</p> <p>Object of regulation: The object of this legislation is to regulate control of premises which are used to manufacture and store goods subject to customs duty and excise duty respectively.</p> | | |
| <p>Duplication occurs because there are two Commonwealth Government agencies that administer excise equivalent goods. (Note: EEGs refer to imported alcohol products [including spirits and Ready to Drink alcohol beverages – RTDs], imported tobacco and imported petroleum. That is, imported goods which would have been subject to excise duty if they had been produced in Australia.</p> <p>Prior to 1998, Customs had sole responsibility for administration of the <i>Customs Act 1901</i> and the <i>Excise Act 1901</i>, which deal with imported and locally produced excisable goods respectively.</p> | <p>To our knowledge, no attempts have been made by the Australian Government to address this duplication.</p> <p>Advice from Australian Government departments is that this is an Administrative Arrangements Order (AAO) issue. As AAOs are conventionally revised after each general election, there have been 3 opportunities for the Government to address the duplication.</p> | <p>DSICA suggests that the solution to address the duplication is to have one agency responsible for administration of EEGs.</p> <p>DSICA recommends:</p> <ul style="list-style-type: none"> • that the ATO be the agency responsible for the collection of revenue and the administrative arrangements relating to EEGs (as it is unlikely that the Government will return responsibility for excise duty to Customs); and • that Customs continue to have responsibility for border management aspects regarding the importation of EEGs. |

| How does duplication occur | Attempts to address duplication | Solutions |
|---|---|--|
| <p>In 1998, the responsibility for the <i>Excise Act</i> was transferred from Customs to the ATO. Since that time, DSICA members have had to deal with two agencies in relation to EEGs (Customs for imported goods and the ATO for locally manufactured goods).</p> | | |
| <p>Customs procedures/Taxation provisions: collection of excise duty and GST</p> <p>Relevant Regulation: Part VI, <i>Excise Act 1901</i>; Part 2-7, <i>A New Tax System (Goods and Services Tax) Act 1999</i> (the GST Act)</p> <p>Administering agencies: Australian Taxation Office (ATO)</p> <p>Object of regulation: The object of this legislation is to regulate payment methodology of Commonwealth taxes.</p> | | |
| <p>Duplication occurs because entities are required to report and remit taxes (excise and GST respectively) under two different systems and on two different forms.</p> <p>Under the <i>Excise Act 1901</i>, entities liable to pay excise are required to remit the excise weekly. This is done by way of an “Excise Return” which</p> | <p>To our knowledge, no attempts have been made by the Australian Government to address this duplication.</p> | <p>DSICA suggests that reporting arrangements for excise be streamlined into the BAS.</p> <p>Weekly excise payments could continue to be made (but on an estimated basis), and periodic reconciliation and acquittal could be made on the BAS.</p> |



| How does duplication occur | Attempts to address duplication | Solutions |
|---|--|---|
| <p>is required to be submitted to the ATO under section 58 or 61C of the <i>Excise Act</i>.</p> <p>Under the GST Act, entities liable to pay GST are required to remit GST periodically according to their turnover (monthly or quarterly). GST is reported to the ATO on the entities' Business Activity Statement (BAS). Note that the BAS also allows for reporting of other taxation liabilities such as Pay As You Go Withholding, Pay As You Go Instalments, Fringe Benefits Tax, Wine Equalisation Tax and Luxury Car Tax.</p> | | <p>With the ATO responsible for Excise (as well as the other taxes reportable on the BAS), there are no "cross-agency" issues to overcome.</p> <p>DSICA believes that there is a genuine opportunity to reduce business compliance costs with this issue.</p> |