

ADVOCACY PAPER
RESPONSIBLE ALCOHOL CONTENT OF FLAVOURED CIDERS
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Cider Australia calls on the Federal Government to improve responsible drinking outcomes by allowing lower alcohol flavoured ciders to be taxed under WET.

The problem

Apple and pear cider is subject to the Wine Equalisation Tax (WET) except where it has additions of colours, flavours or alcohol not derived from apple or pear¹.

Where a cider is flavoured with fruits other than apple or pear, or any vegetables, spices or herbs, it falls under the definition of a *fruit or vegetable wine* which must contain a minimum of 8% ABV before WET applies².

Ciders that do not meet WET eligibility requirements pay excise.

The requirement for flavoured ciders to contain a minimum of 8% ABV to be WET-eligible encourages producers to make high strength flavoured ciders to avoid the costs and complexity of opting into a second tax regime.

Cider Australia represents craft producers many of whom consider 8% ABV to be undesirably high for most flavoured ciders from both a production and taste perspective. Consumers are increasingly opting for lower alcohol beverage options and yet the 8% ABV threshold is inhibiting product development and innovation in the flavoured cider segment. ***Cider Australia members who produce flavoured ciders at or above 8% ABV would overwhelmingly reduce the alcohol content if there were no tax implications.***

It is rare to see an 8% ABV flavoured cider on tap in bars and hotels due to concerns about serving alcohol responsibly, and packaged flavoured ciders face a similar barrier on- and off-premise. ***Discussions with trade buyers and consumers suggest that they would prefer a greater availability of lower alcohol flavoured ciders.***

¹ Section 31-5 of the A New Tax System (Wine Equalisation Tax) Act 1999 defines cider and perry (also called pear cider).

² The product will be defined as a *fruit or vegetable wine* and must also meet other requirements in section 31-4 of the WET Act. Also note that to be taxed under WET, a *fruit or vegetable wine* must be a product of the complete or partial fermentation of the juice or must of fruit or vegetables, or products derived solely from fruit or vegetables (paragraph 30 of WETR 2009/1). Thus, flavouring ingredients must be added prior to fermentation, otherwise the product is excisable.

Cider with fruit has both historical context – some styles are centuries old – and current relevance with many innovative products created in contemporary styles. With lighter strength ciders and flavoured ciders growing in popularity, we believe it is timely to reduce the 8% ABV threshold.

In response to the emergence of contemporary sweeter wines, the minimum alcohol content for grape wine was lowered from 8% to 4.5% in 2011³. A reduction in the 8% ABV threshold would also realign and bring consistency in the requirements for grape wine and fruit and vegetable wine⁴.

Impact on responsible drinking

The 8% ABV threshold is at odds with responsible service of alcohol (RSA) obligations. An alcohol content of 8% is high for an easy-drinking (in taste) alcoholic beverage that is generally presented in a 330mL/375mL bottle/can or a 285mL/425mL glass.

The table below shows that a single can of 8% ABV flavoured cider contains 2.4 standard drinks and a 425mL schooner a whopping 2.7 standard drinks!

| Container | Standard drinks* at 8% ABV | Standard drinks* at 5% ABV |
|---|-----------------------------------|-----------------------------------|
| 330mL bottle | 2.1 | 1.3 |
| 375mL can | 2.4 | 1.5 |
| 285mL middy | 1.8 | 1.1 |
| 425mL schooner | 2.7 | 1.7 |
| * Standard drinks is calculated as volume (litres) x ABV (%) x 0.789 (the specific gravity of ethanol) | | |

The market for flavoured cider is obviously skewed by the 8% ABV threshold. This can be seen in Australian Cider Awards entries over the last 3 years, where 65% of the flavoured cider entries had an alcohol content of 8% ABV or above⁵.

Historical context

Cider Australia believes that the current WET design was intended to preclude many RTD or alcopop-style products from the WET regime.

Alternative criteria could be designed to avoid unintended outcomes and ensure that a reduction in the minimum ABV for WET-eligible flavoured ciders benefits Australian growers and producers. This could be based on eligibility criteria for the WET producer rebate enacted in 2018 *to support the Australian wine industry by ensuring that wine producers*

³ Compositional requirements for grape wine including minimum ABV is specified in Standard 4.5.1 of the Australia New Zealand Food Standards Code. The WET Act specifies a minimum alcohol content of 8% ABV for fruit and vegetable wine and 1.15% ABV for all other WET-eligible products.

⁴ There is an inconsistency with the WET treatment of mead – mead flavoured with fruit is required to contain a minimum of 8% ABV but mead flavoured with honey, herbs and spices is not (WET Regulations – 31-6.01(5)).

⁵ Sample size of 92 entries.

who build brands, invest in regional communities and create local jobs are the beneficiaries of the rebate⁶.

Proposal

Reduce the minimum alcohol content of WET-eligible flavoured ciders to 4.5% [or lower] if the applicant:

- is the producer⁷ of the cider
- owned the apples and pears that made up at least [85%] of the total volume of the cider throughout the cider making process, and owned the fruit component at the time of crushing
- is selling the cider in a container with a capacity of 51 litres or less that is suitable for retail sale and branded by a trade mark owned by the applicant (or an associated entity)
- can demonstrate that at least half the volume of the final product is the product of the fermentation of apple and pear juice⁸.

Background

Cider production in Australia is impacted by two different regulatory frameworks:

- Food safety – the Australia New Zealand Food Standards Code (the Code) sets out production standards and labelling requirements
- Taxation – WET rules determines if a product is WET-eligible, otherwise excise is payable.

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⁶ Wine Equalisation Tax Rebate Explanatory Memorandum at https://treasury.gov.au/sites/default/files/2019-03/C2017-011_WET_em.docx

⁷ As defined under the WET producer rebate, to be a producer you must manufacture the wine or provide source product (for cider, the apples or pears) to a contract winemaker to be made into wine on your behalf, where at all times you own the source product and the produced wine.

⁸ A minimum juice content is proposed to limit unexpected outcomes given there are no restrictions on water additions for fruit and vegetable wine (as opposed to grape wine).