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Competition Authority

**Interim Study on the Liquor Licensing Laws and other Barriers to Entry and their
impact on Competition in the Retail Drinks Market**

23 September 1998

An interim study pursuant to Section 11 of the Competition Act, 1991.

Chapter 1

Introduction

1.1 On 30 January 1997, the Competition Authority invoked its powers under Section 11 of the Competition Act, 1991, as amended by the Competition (Amendment) Act, 1996, to undertake, on its own initiative, a study of the retail drinks market. The study was intended to analyse the structural barriers affecting the retail drinks market and was conducted according to the following terms of reference:

“to undertake a study and analysis of the liquor licensing laws and other barriers to entry, and their impact on competition in the retail drinks market within the State.”

1.2 This study should be viewed in the context of the particular powers conferred upon the Authority by the 1996 Act; that Act conferred two additional powers on the Authority which are relevant here. First, the Authority was granted the power to conduct a study of a practice or method of competition on its own initiative. Prior to the 1996 Act the Authority was empowered to undertake such a study only upon Ministerial direction. Second, the Authority was granted enforcement powers and it now has the power to bring an action against a person for a violation of Section 4 or 5 of the Competition Act. Prior to the 1996 Act, the Authority had no such role in the enforcement of the Act.

1.3 These new powers gave the Authority the ability to act independently to promote competition in the State in two different ways. First, as to actions which fall within the prohibitions of Sections 4 or 5 of the Competition Act, the Authority may initiate legal proceedings. Second, as to actions or other factors which restrict competition but which fall outside the prohibitions of Sections 4 or 5 of the Competition Act, the Authority may initiate a study under Section 11. In this instance, the Authority invoked its Section 11 powers to initiate a study as the existence of the liquor licensing laws and other legal barriers to enter a market are generally beyond the scope of Sections 4 or 5 of the Competition Act.

1.4 The purpose of the study is to focus on the economic effects of the liquor licensing laws and their possible reform. It was not intended to identify actions taken by undertakings or associations of undertakings in the drinks market in violation of sections 4 or 5 of the Competition Act, 1991.

1.5 The study was undertaken by the Authority with the full knowledge that previous studies of the retail drinks market had been made by various governmental bodies. Prior studies, in particular, the 1977 Report of the Restrictive Practices Commission, identified significant anti-competitive features of the liquor licensing laws and proposed certain wide-ranging reforms which have never been implemented.

1.6 The Authority published its terms of reference on 7 February 1997 inviting submissions from interested parties by 7 March 1997. All requests for extensions of time to make written submissions were granted and all parties who made submissions were afforded an opportunity to make an oral submission. In total 26 submissions were received and 19 oral hearings were held. In addition, the Authority received information from the Office of the Director of Consumer Affairs, the Revenue Commissioners, and Bord Failte. The Central Statistics Office provided the Authority and its consultants with access to the latest available

data concerning the retail drinks market. The Authority wishes to express its gratitude to all parties for the submissions which were made and for the information which was provided.

Actions Subsequent to the Initiation of the Drinks Study

1.7 On 7 March 1997, the Minister of State at the Department of Enterprise and Employment made an order under the Prices Acts fixing the prices of various alcoholic beverages at licensed premises outside Dublin at the prices charged on 4 November 1996 (S.I. No. 108 of 1997, Retail Prices (Intoxicating Liquor) Order, 1997). The order excluded premises in the county borough of Dublin, the administrative county of South Dublin, the administrative county of Fingal and the administrative county of Dun Laoghaire/Rathdown. Dublin was excluded from the terms of the Prices Order since the Minister had, in the preceding January, reached an agreement with the Licensed Vintners Association (the trade association of on licensed premises in Dublin) for Dublin licensees to return their prices to the November 1996 level.

1.8 In the first week of June 1998, the Authority issued proceedings against the Licensed Vintners Association, the Vintners Federation of Ireland and certain named licensees, grounded in actions prohibited by Section 4 of the Competition Act. As of the date of issue of this report, the proceedings are pending.

1.9 In light of the pending proceedings, the Authority decided to publish this report as an interim report. This report focuses exclusively on the effect of the liquor licensing laws on the cost of entry and the structure of the retail drinks market. The final report, which will be published following the termination of the pending proceedings, will examine the effect of the liquor licensing laws on the behaviour of undertakings and associations of undertakings in the retail drinks market. As the pending proceedings are grounded in the behaviour of undertakings and associations of undertakings in the relevant market, the Authority has decided to delay the completion and publication of the final part of the report.

Chapter 2

Previous Reports on the Retail Drinks Trade

2.1 The retail drinks trade has been the subject of extensive political interest and economic analysis. Historic and contemporary concern has focused on the need to address the social problems which result from excessive consumption of alcohol. The liquor licensing laws, which took shape in their present form in 1902, also have been subject to considerable scrutiny from a number of government bodies. A summary of the reports of these bodies is set out below.

Intoxicating Liquor Commission - 1925

2.2 In 1925 an Intoxicating Liquor Commission was appointed by the Executive Council to ascertain whether the number of licensed premises in the State was in excess of requirements and, if so, to suggest methods to reduce the numbers. The main recommendation of the Commission was that the number of licensed premises in certain areas was excessive (most parts of Dublin being an exception) and therefore a scheme should be introduced whereby a licence in a particular area could be abolished on the grounds of an excess of licensed premises in that area. The scheme provided that compensation should be paid in respect of licences which were abolished. The amount of compensation was to be set by a Compensation Authority on the basis of an estimation of the value of the licence attaching to the premises at issue. The compensation was to be funded, at least in part, out of the proceeds of a levy on the remaining licensees in the locality where the licence was abolished. A scheme of this nature operated for only one year under provisions of the Intoxicating Liquor Act, 1927. During that year, 299 licences were abolished and approximately £50,000 was paid in compensation. The cost of operation of the scheme relative to the value of the licences abolished, many of which were very marginal traders, made the scheme unworkable. This compensation scheme was formally abolished in 1960.

Commission of Enquiry - 1957

2.3 In 1957 a Commission of Enquiry was established by the Minister for Justice "to enquire into the operation of the laws relating to the sale and supply of intoxicating liquor and to make recommendations." The main recommendations were that the granting of a new public house licence in both urban and rural areas should be conditional on the extinction of two existing licences, that hotels should be allowed to have a public bar on the extinction of a public house licence, and that prohibited hours of trading should be altered. These recommendations, with one exception, were incorporated, with modifications, into the Intoxicating Liquor Act of 1960. The recommendation that an urban licence be issued on the extinction of two urban licences was not accepted.

2.4 The Commission recommended the repeal of the provision of the Coroners Act of 1846 which obliged publicans to allow the remains of deceased persons to be deposited in their premises at the direction of a Coroner for the purpose of an inquest. This provision was repealed by the Coroners Act, 1962.

Enquiry by the Fair Trade Commission (FTC) under the Restrictive Trade Practices Acts - 1953

2.5 The Minister for Industry and Commerce requested the FTC to hold an enquiry into restrictive trade practices affecting the retail prices of intoxicating liquor and soft drinks following a series of increases in the price of alcoholic drinks. The budget of 11 May 1965 imposed increases of 2d per glass excise duty on spirits, 1d per pint on beer and 1d per bottle on wine. Shortly afterwards the breweries and distilleries announced increases in prices, additional to the increases in duties, claiming the prices were justified due to higher operating costs. It was reported in the daily press on 18 May 1965 that the Dublin Licensed Grocers and Vintners Association had decided to recommend an increase in the retail price of spirits of 4d per glass, an increase in the price of a pint of stout or beer of 2d, an increase in the price of a half-pint bottle of stout or beer of 1d and an increase of 2d per glass in the price of wines. This announcement was followed by announcements of similar increases by vintners' associations in other areas throughout the country.

2.6 The Commission found collective arrangements regarding retail prices widespread in the trade. The arrangements were established and monitored by local vintners' associations. Evidence was found that two of those associations, in Dublin and Sligo, took action to enforce the recommended prices. The Commission did not accept any justification for the preparation and circulation of industry wide retail price lists and found that such a practice constituted an interference with competition, was unfair and operated against the public interest. The Commission took the view that the pricing function should remain within the domain of individual traders. Accordingly, it recommended that a Ministerial Order be made to prohibit collective action by trade associations or groups of traders in regard to the selling prices of intoxicating liquor and soft drinks. This recommendation was given effect by the Restrictive Practices (Intoxicating Liquor and Non-Alcoholic Beverages) Order 1965. The Order continued to apply until the Competition Act came into force in October 1991.

National Prices Commission (NPC) - Occasional Paper No. 3 - The Price of Drink - 1972

2.7 On 1 October 1971 the Licensed Vintners' Association (LVA) applied to the Minister for Industry and Commerce for a price increase of 1p per pint on draught stout, ale and lager, 1p per half-pint bottle and 1.5p per pint bottle of stout, 1/2p per half-pint bottle of ale, 1p per half-pint bottle of lager and an increase of 1p per half-glass of Irish spirits with *pro rata* increases for foreign spirits. The Minister requested the accounts of certain licensed traders in Dublin for purposes of reviewing the application. The LVA objected to this request on the grounds that the sample of licensed traders chosen by the Minister was not representative. This dispute was referred to the NPC in December 1971. The NPC appointed consultants early in 1972 to examine "the economic background to the submission, assess relevant comparative evidence bearing on the application, and derive such conclusions as the facts will support." The consultants were charged with assessing "the evidence bearing upon the application of the Licensed Vintners' Association for an increase in the price of drink."

2.8 The consultants found that competition in drink retailing was constrained by the licensing system. The consultants also commented on restrictions in the labour market and found that a 'closed shop' operated in the Dublin area. They concluded that the structure of the retail trade was characterised by the strength of the retail trade associations and the unions of the labour force involved and that these factors allowed for increases in cost to be passed on to consumers.

2.9 The NPC recommended price increases below that requested by the LVA. The NPC also recommended that a Retail Price (Drink) Display Order be made requiring all licensees to display their prices in both their lounge and public bar. A Retail Price Display Order was made in 1972. The Retail Price (Beverages In Licensed Premises) Display Order, 1976 (S.I. No.146 of 1976) is currently in operation and enforced by the Director of Consumer Affairs. Both the consultants and the Commission recommended that the licensing arrangements be examined because of the adverse economic consequences of the present system. The Commission found that competition was inhibited and property rights in licences were created that had no obvious justification.

Study by the Restrictive Practices Commission (RPC) of Competition in the Licensed Drink Trade - 1977

2.10 In October 1976, the Minister for Industry and Commerce requested the RPC to study competition in the licensed drink trade. The request was made pursuant to Section 12 of the Restrictive Practices Act 1972. The RPC's terms of reference were:

“to report to the (Minister) on the effect on the common good of the nature and extent of competition in the retailing and serving of intoxicating liquor and of non-alcoholic drinks sold in licensed premises, having regard to any types of restrictive practices in operation and the effect on competition of the licensing laws.”

The request arose from the Minister's concern about the prices of both alcoholic and non-alcoholic drinks sold in licensed premises. The Minister was also concerned that actions were being taken in breach of the Restrictive Practices (Intoxicating Liquor and Non-Alcoholic Beverages) Order 1965 and that publicans were implementing unauthorised price increases.

2.11 The RPC undertook an extensive analysis of the retail drinks sector. The RPC concluded that the 1965 Order had little, if any, apparent effect in preventing concerted action by licensed vintners in relation to price increases in a number of centres. It found that the liquor licensing laws restricted competition to an extent which was unnecessary to the functioning of an efficient system of licensing, had resulted in a serious distortion in the structure of the trade and had increased operating costs and prices. This distortion had become most acute in urban centres. The licensing laws had facilitated collusion on pricing and channelled competition into non-price areas. The effect of the licensing laws in the rural areas was to maintain an uneconomic number of premises in areas of declining population and demand.

2.12 The RPC recommended that full licensing should be extended to restaurants which complied with criteria set down by the Irish Tourist Board and of the licensing authorities. Such a recommendation was implemented in part in the Intoxicating Liquor Act 1988 by way of the creation of the special restaurant licence.

2.13 While acknowledging the need for some kind of licensing system, the RPC considered that the procedures for licensing should be improved. It recommended an end to the requirement for the extinction of existing licences to obtain a new licence and suggested that applications for new licences should be examined in the light of criteria to be laid down by the Minister for Justice. Such criteria might include the number of existing licensed premises in an area, and standards relating to the applicant and the premises concerned, but would not include expressly anti-competitive provisions. The RPC also recommended a new administrative procedure, which would involve either a national licensing body, working in consultation with the local police and the local planning authority under the Minister for Justice, or a number of local bodies. The new licensing authority would have responsibility for applications for new licences, new premises, transfer of licences, new off-licences, new clubs and new hotels and restaurants. Applications for renewal of licences and occasional licences and temporary exemptions should continue to be handled by the district courts. The new procedures should also be applied to off-licences.

2.14 The recommendations noted immediately above were not implemented.

Report of Select Committee on Legislation and Security on Liquor Licensing Laws - 1996

2.15 On 20 February 1996, a Select Committee on Legislation and Security agreed a motion

“ That the Committee or a sub-Committee thereof carry out a review of the liquor licensing laws with a view to making recommendations to the relevant Departments in relation thereto. That the Committee should seek the views of the Gardai, the Vintners’ Association, the relevant Government Departments, and any other interested groups in carrying out this review.”

2.16 The Review was published by a sub-Committee in June 1998 and contains 75 recommendations for both the reform and preservation of certain aspects of the liquor licensing laws.

2.17 The Committee did not examine the liquor licensing laws in the context of a barrier to entry. In the Foreword to the Review, the Chairman of the Sub-Committee stated that:

“In relation to competition, high prices and the high value of the licence, the sub-Committee did not debate these factors or issues creating barriers to entry into the market. Rather, these matters will be considered in a report due shortly from the Competition Authority commissioned in 1997 by the Coalition Government at the request of Minister of State, Mr. Pat Rabbitte T.D.”

2.18 Accordingly, this report of the Competition Authority is complementary to the Review of the Committee, a point further noted in the body of the Committee’s Review.

“At the time of publication of this report, we understand that the Competition Authority has prepared a report on the competition issues arising in the licensed trade. We look forward to the publication of this report and we anticipate that it will complement our own recommendations in contributing to the public debate on liquor licensing.”

(Review of the sub-Committee, Section 1.11).

Chapter 3

Submissions to the Authority

Licensed Vintners Association

3.1 The Licensed Vintners Association (LVA) was founded in 1817 and is the representative body for the licensed trade inside Dublin City & County. It represents 686 establishments.

3.2 The LVA acknowledged that the current licensing system created a valuable property right in the form of a licence and therefore constituted a cost-increasing barrier to those wishing to enter the trade. However, the LVA did not support any change in the current system and noted the following in its support:

- The uniqueness of the 'Irish Pub' is a valuable component of the Irish tourism product. This unique character needs to be preserved and the proliferation of licences would bring with it an inevitable fall in standards of service and premises.
- Greater ease of entry and exit from the retail drinks market would encourage the entry of unscrupulous operators in a market for a controlled substance. With more licences, there would be less of an incentive for licensees to run an orderly house.
- The stability of the trade is greatly enhanced by the credit-worthiness of outlets. This stability would be undermined by an increase in the number of licences and the inevitable decrease in the value of licences that would follow.

3.3 The LVA argued that the relative cost of the licence did not constitute a significant barrier to entry. The cost of the licence could not be viewed as prohibitive in the context of the scale of investment required in order to open a premises which would generate the kind of turnover required to stay in business. The LVA contended that the planning code constituted the largest barrier to entry in the retail drinks trade.

3.4 The LVA argued that there was adequate price competition in the Dublin retail drinks trade and took the price of draught stout as an indicator of this. Draught stout retails in a price range of 187p - 225p - a 20% price differential. Conceding that there had been increases in drink prices in recent years, the LVA argued that price increases had largely been driven by the non-price demands of consumers. To meet this demand, publicans in Dublin had invested heavily in the refurbishment of premises, with an average of £51,000 per premises having been spent by Dublin pubs on refurbishment over the 1990-1994 period. Some premises had spent in excess of £250,000 on refurbishment. The LVA produced market research indicating that price was not an important factor to consumers in purchasing drink at a licensed premises (In one survey, price ranked 13 out of 16 factors listed). According to the LVA, an increase in the number of premises would have no effect on drink prices in Dublin.

3.5 The LVA contended that there was an adequate number of licensed premises in Dublin. The LVA produced market research which indicated that most consumers in Dublin

were satisfied with the number of licensed premises in Dublin and the current choices available to them. The LVA produced maps of the Blanchardstown area which they believed indicated that the area had a sufficient number of pubs and that planning constituted the most significant barrier to entry. The LVA indicated that it was not aware of any pressure coming from third parties to enter the retail drinks market in Dublin.

3.6 The LVA did acknowledge that there were too many licensed premises in rural areas serving a declining population base.

Vintners' Federation of Ireland

3.7 The Vintners' Federation of Ireland (VFI) is the representative body for all licensed premises outside the Dublin region. It represents about 6,000 publicans. The VFI submission was prepared by Corporate Efficiency Analysis of Galway who also attended the oral hearing.

3.8 The VFI acknowledged the geographical imbalances in the distribution of licences under the current system. Dublin has experienced the greatest proportionate increase in population since 1901 of any county and therefore has the largest ratio of population per licensed premises in the country. This distributional imbalance is reflected in the turnover of premises as well. Only 12% of pubs in Dublin have an annual turnover under £150,000, compared to 76.5% of pubs outside of Dublin. 15% of Dublin pubs have an annual turnover of more than £1 million, compared to only 0.5% of pubs outside of Dublin. To address this imbalance, the VFI recommended an amendment to the current rules so that a new licence should be granted upon the extinction of two other licences anywhere in the State. Within County Borough districts, the VFI supported a regime whereby the extinction of one existing County Borough licence would also suffice for obtaining a new licence. The three Dublin Administrative Counties should be treated as County Boroughs for the purposes of the licensing laws.

3.9 The VFI argued that special provisions should be made in the licensing laws to protect the rural trade. This included the establishment of a "five mile rule" which would provide that new premises could not open within five miles of the nearest pub in rural areas. In addition, new licences granted would be limited in size to that of the premises attaching to the extinguished licence. Therefore, in order to open a 'Superpub' in a rural area, the new licensee would need to acquire more than two rural licences or more than one County Borough licence.

3.10 The VFI conceded that the existing laws operated as a barrier to exit in rural areas. However, they argued that their proposed regime would ameliorate this barrier to exit insofar as it would facilitate market exit and allow existing uneconomic operators to leave the trade with dignity and fully protect the constitutional rights of publicans.

3.11 The VFI also argued that the value of the licence was a vital incentive to operators to trade responsibly.

3.12 The issue of price controls in the licensed drinks trade arose at the VFI's oral hearing with the Authority. The VFI were invited to make an additional submission in relation to this issue and a submission was provided by Corporate Efficiency Analysis.

3.13 This submission argued that price controls had a distorting effect on the licensed trade. The relevant product market was defined as a package of goods and services consisting of the general atmosphere and appearance of a licensed premises as well as drink, food and entertainment. Drink was becoming an increasingly less important part of the package and market research on determinants of consumers' choice of pubs was produced to support this contention. The submission rejected some unfavourable comparisons which have been made by others between prices in the on-trade and the off-trade and concluded that such comparisons are misleading in that the on-trade and off-trade operate in two separate markets.

3.14 The submission produced econometric analysis to support a position that there is a statistically significant negative relationship between price controls and consumption. The negative relationship was understood to be the product of the under-investment in non-price competition by publicans during periods of price control and this leads to a decrease in the demand for the product.

Licensing Information and Consultancy

3.15 Licensing Information and Consultancy (LIC) is a private business run by Mr. James Bunyan. LIC gives advice on locating and acquiring liquor licences. LIC have assisted grocers in obtaining licences for conversion to the off-trade.

3.16 LIC supported the liberalisation of the licensing laws so as to facilitate greater ease of entry to the market. LIC noted that the current cost of obtaining a licence or the consent to the extinguishment of an existing one is prohibitive to many small and medium size retailers who wish to enter the off-trade.

3.17 To illustrate the difficulties to which they refer, LIC provided a number of examples of small to medium sized traders who find themselves priced out of the market for licences as the size of their respective operations makes it impossible for them to buy licences which may be available. Prices quoted for licences in the locality would be a minimum of £45,000 and in some cases over £200,000. These traders would only be able to operate a licence economically at a purchase price substantially below the minimum price of £45,000. Such small traders include small shops (frequently members of symbol groups) and forecourt retailers who would undertake to sell alcohol as a complement to their existing business.

Mayo Branch - VFI

3.18 The Mayo VFI has a membership of approximately 380 or about 75% of the 450 publicans in Co. Mayo. The Mayo VFI noted the geographical imbalances in the distribution of licences throughout the State. To illustrate this, the Mayo VFI noted, that Mayo has 614 licences and a population (according to 1996 census figures) of 111,390 people or approximately 185 people per licence. The Mayo VFI compared this tally with the following:

Dublin	- pop. 1,056,666	- 791 pubs	- 1,335 people per licence.
Tallaght	- pop. 62, 537	- 11 pubs	- 5,685 people per licence.

Clondalkin - pop. 41,541 - 10 pubs - 4,145 people per licence.

To redress this distributional imbalance, the Mayo VFI recommended a change in the current law to allow for the free movement of licences to anywhere within the State.

3.19 The Mayo VFI also recommended additional changes in the licensing laws to improve the lot of the rural vintners. These included extended weekend opening hours and permission for gaming on premises.

Cavan Branch - VFI

3.20 The Cavan Branch of the VFI represent the licensed trade in Co. Cavan and has approximately 160 members in its area.

3.21 The Cavan VFI acknowledged that there was a significant geographical imbalance in the distribution of licences in the State. They also believed that throughout the State there were more than sufficient licences to meet demand. Accordingly, the Cavan VFI supported changes in the current system to remove geographical restrictions on the mobility of licences.

Irish Music Rights Organisation

3.22 Formed in 1988, the Irish Music Rights Organisation (IMRO) is a copyright collecting society acting in the Republic on behalf of authors, lyricists and composers of musical works. It has over 1,500 members in the Republic of Ireland. IMRO collects royalties earned under licences accruing to the right-holders for the performing rights of their works. Amongst the licensees are licensed premises throughout the country.

3.23 IMRO claimed that the licensed trade exercised market power with suppliers. IMRO claimed the licensed trade through its representative bodies (the LVA and the VFI) had sought to use the combined market power of its members to dictate to IMRO the terms on which the licensed trade would deal.

3.24 IMRO supported the liberalisation of the licensing laws so as to allow complete freedom of entry to and exit from the trade, subject to compliance with planning, fire and public safety controls and other appropriate qualitative standards.

Irish Bankers Federation

3.25 The Irish Bankers Federation (IBF) is the representative body for the Banking Industry in Ireland. The banks are lenders to the retail drinks trade and much of the credit has been extended on the value of the licences and the projected turnover of existing premises within the current regulatory framework.

3.26 IBF expressed concern that if additional licences were granted freely, it would result in a reduction of the value of existing licences and make some licensees unable to finance existing debt. Such a new trading environment would introduce additional risk to the drinks trade and could lead to difficulties for publicans in raising funds in the future to finance refurbishment to premises.

3.27 IBF suggested that rather than making additional licences available, a degree of geographical mobility of licences be introduced, thereby alleviating geographical imbalances in supply and demand while maintaining the value of licences generally. In the event of additional licences being made available, IBF suggested that this be done on a phased basis over a number of years to give current investors time to reduce their financial commitments in line with financial projections consistent with the new environment.

Drinks Industry Group

3.28 The Drinks Industry Group (DIG) was established in 1981. It acts as an umbrella organisation for the major players in the drinks industry and includes brewers, distillers, soft drink manufacturers, hoteliers, wine and spirit importers and distributors, the Licensed Vintners Association and the Vintners Federation of Ireland.

3.29 The DIG stated in their submission that any extensive change in the licensing laws without full consultation with all parties connected with the industry could lead to significant economic disruption. Such changes could create economic difficulty for many established businesses. These businesses contributed substantially to the economic good of the community and provided substantial employment with virtually no direct subsidisation of any kind from the State.

3.30 DIG said that there was already a high level of competition in the market place. Such competition existed despite the heavily regulated nature of the industry, with government licensing at all levels, including manufacturing, warehousing, distribution, retailing, advertising, promotion and location. Over 10,000 outlets existed selling alcohol in the State. Of outlets surveyed in the State 68.5% had turnovers below £150,000 and many of these were not economically viable. Differences in numbers of outlets and prices charged between rural and urban areas were attributed to structural factors experienced across industrial sectors and not to any anomalies in the licensing system. Furthermore, the retail drinks industry could not be characterised by monopoly pricing, price uniformity or inefficiencies which would accompany protected markets. Accordingly, the licensing system could not be seen as having any significant anti-competitive effects on the relevant market. Costs imposed on traders were easily absorbed by traders when amortised over the lifespan of the trading premises.

Irish Dance and Entertainment Industry Association

3.31 The Irish Dance and Entertainment Industry Association (IDEIA) was formed in 1986. Its members are divided into two categories: (i) hoteliers with a full hotel-type intoxicating liquor licence together with a public dancing licence, and (ii) holders of a full licence, a restaurant certificate under the 1927 Act and a public dancing licence. In either category, the member is then entitled to apply for and obtain from the District Court, on a regular basis, individual special exemption orders. The special exemption orders extend the licensing hours of the member in accordance with specific and statutory criteria. It is estimated that more than 700 premises are engaged in the provision of late night dancing/disco entertainment with the sale of alcoholic beverages. About 320 of these are night-clubs, 50% of which are members of IDEIA.

3.32 The IDEIA had no specific objection to the freeing up of the market and allowing more licences to become available. It submitted that the drink time limits for the late night dance entertainment industry be standardised to 1.30/2 am Monday to Sunday nights

inclusive, with half an hour drinking up time. The IDEIA proposed that an extra half an hour be added in the Summer to compensate for the extra half hour pub closing times. There should be no further change in existing pub closing hours without prior consultation with the IDEIA.

3.33 The IDEIA said that the provisions of Section 5(3) of the 1927 Act as amended by Section 29 of the 1988 Act (which prohibits the awarding of special exemption orders anytime on Sunday and on Monday morning) was outmoded, incomprehensible to the general public, open to abuse in its enforcement and unequally enforced throughout the State.

3.34 The IDEIA submitted that their proposal would increase tax revenue, maintain/increase employment, release Gardai, judge and court staff time and remove pressure from late night entertainment owners. If no corrective action was taken, the industry would continue to decline with obvious consequences for employment, tax revenue, social and tourist benefits.

Irish Hotels Federation

3.35 The Irish Hotel Federation (IHF) was founded in 1937 and is the representative body in Ireland for hotels and guest houses and has over 700 members. Approximately two thirds are hotels and one third are guest houses. The IHF offers marketing and financial services to its members. A hotel with 20 plus beds in a county borough area or ten plus beds in other areas is entitled to a hotel licence. All hotels and a small number of guest houses would hold such licences.

3.36 The IHF did not support any change in the licensing laws. It saw no need for a change in the licensing restrictions which currently applied to restaurants. Increasing the number of licences would result in a larger number of licensed operators taking an increasingly smaller share of a finite market. Initially this might result in a larger selection of licensed venues for consumers. However, this would not benefit consumers for any significant period of time as decreasing profitability levels would force a number of operators out of the market with the long term result of reduced consumer choice. A move to liberalise the liquor licensing regime might result in the stronger, and hence more powerful entities, growing and expanding at the expense of the smaller operator. Therefore, any effort to liberalise the licensing laws would result in a market dominated by a small number of operators owning chains of licensed premises. This would inevitably lead to an adverse effect on prices in the industry. The IHF was of the view that there was neither a demand for nor commercial justification for issuing additional licences.

3.37 The IHF submitted that by increasing the number of licences, the incentive and motivation among entrepreneurs to invest in creating a differentiated product would be decreased with an adverse effect on the tourism trade. Increasing the numbers of licences would also have the effect of de-valuing existing licences, possibly resulting in the emergence of unscrupulous operators who might flout the laws and undermine the high standards set by the industry to date.

Restaurants Association of Ireland

3.38 The Restaurants Association of Ireland (RAI) was founded in 1970 by a group of Dublin-based restaurant owners with the main objective of securing for its members a licence to sell a full range of alcoholic products. The RAI is a national organisation with 9 branches throughout the country. It is governed by a Council and has over 400 members. RAI campaigned for the Intoxicating Liquor Act 1988 under which 168 of its members secured special restaurant licences

3.39 RAI stated that supply and demand should dictate the number of licences in the market place and that they would support an increase in the number of hotel or publican licences. The existing licensing system facilitated the continuation of the dominant position held by publicans not only in relation to the provision of intoxicating liquor to consumers but also in the food and restaurant business. The Intoxicating Liquor Act 1988 failed to rectify the position for restaurants because the conditions in the legislation were too onerous and restrictive.

3.40 RAI recommended that a licence permitting the sale of a full range of drinks should be available to bona fide restaurants with the minimum of difficulty and expense. An anomaly existed in that publicans could very easily enter the restaurant or food business and many had developed dedicated dining areas in addition to the provision of meals in a lounge or bar. No additional licence or permit was required for publicans to do this. Publicans' licences were in no way dependent on the standard of food and service provided and there was no requirement that publicans should have the standard of their product and service subject to inspection by a licensing body such as Bord Failte. RAI stated that if a restaurateur wished to provide a full range of drinks to customers the only licence available was a special restaurant licence under the 1988 Act. To qualify for a special restaurant licence the premises had to comply with high standards of product and service and inspection by Bord Failte. The law, therefore, clearly protected and facilitated publicans in their own business and assisted them to compete with a distinct advantage over restaurateurs. RAI proposed that the 1988 Regulations setting out the conditions which restaurants must meet to qualify for a licence should be abolished or, in the alternative, at least be reduced to a minimum. The hours during which alcoholic drinks may be served and consumed should be liberalised generally allowing proprietors to provide products at times that meet consumer needs.

3.41 RAI submitted that appropriate modification of the intoxicating liquor laws relating to restaurants would result in the creation of further jobs in the restaurant sector. A liberalised licensing system would also lead to the growth of local trade and industry, particularly food producers and other suppliers to the restaurant trade.

The National Off-Licence Association

3.42 The National Off-Licence Association (NOffLA) was founded in 1992 and is the national organisation representing the interests of the 500 independent, mainly family owned off-licence businesses in Ireland.

3.43 NOffLA stated that on a national basis there was a glut of licences available but that significant geographical imbalances existed. NOffLA proposed that rural licences should be fully portable. However, instead of having to surrender two licences, as was currently the

situation, the new operator would have to surrender four. The same rules should also apply to restaurants wishing to sell alcohol.

3.44 NOffLA believed that its proposal would alleviate the problem of too many licences in certain areas, but would continue to allow new licences to be developed where the need arose. NOffLA believed that with this amendment, the current geographical imbalance in licenses would be eliminated within the next decade.

3.45 NOffLA stated that historically, off-licences had the same opening hours as public houses. More recently certain public houses operated under restaurant licences which allowed them to open until one or two o'clock in the morning. This had led to confusion and needed clarification. They said that the provision of extended opening hours was both necessary and beneficial to the industry. Accordingly, they proposed that public houses and restaurants be allowed to open hours that suited their trading region and season, up to a maximum of 18 hours a day. Off-licences in public houses and supermarkets as well as stand alone off-licences should be allowed to trade up to a maximum of 12 hours a day, with latest closing time being midnight.

Murphy Brewery Ireland Limited

3.46 The company was established in 1856 by four Murphy brothers and started as J J. Murphy & Company producing beer and stout. In 1983, Heineken bought the assets of the successor company and started Murphy Brewery Ireland Limited (MBIL). The company concentrates on Murphy and Heineken branded products and also distributes smaller packaged brands such as Coors, Buckler and Amstel.

3.47 MBIL submitted that licensed outlets should be appropriately regulated so as to provide optimum value for all concerned - a simple increase in the number of licences might not increase competition at all. A number of obstacles would need to be overcome before any alteration in the number of licences would transmit into greater choice and competition at the local market level. An increase in the number of licences in Ireland would diminish the value of existing licences, create negative equity in premises bought at high prices and encourage publicans to look for additional financing from suppliers. In the Irish market context, full consideration of these obstacles should include some of the current practices of suppliers in the retail sector.

3.48 MBIL said that there was already a relatively high density of licensed premises in Ireland when compared to other national markets. MBIL supported the development of the licensed off-trade which it believed would increase overall competition in the drinks market.

Campaign against Dangerous Drunken Driving

3.49 The Campaign against Dangerous Drunken Driving stated that there were too many licences in existence resulting in a cost to the State in terms of hospital expenses to accident victims of drunk driving. It also believed that consumers should be allowed to object to licence renewals on a wider set of grounds and the law should be changed to restrict opening hours of public houses.

Seamus Foy & Co. Accountants

3.50 Seamus Foy & Co. Accountants (Seamus Foy) made a submission on behalf of six day and early closing licensees. Currently, there are fewer than 100 such licensees in the country and their numbers have been declining. These licensees are largely those who had passed over the opportunity to convert their licences into full licences under the Intoxicating Liquor Act 1960 which expired in 1980. The restrictions on their terms of operation contained in their licences created a disincentive to invest in premises and thereby contributed to the continued uneconomic nature of operation. Seamus Foy supported the reinstatement of the convertibility of such licences to full licences and the further provision that licences be made portable throughout the country.

Other Submissions:

3.51 Club USI - (Members club, Union of Students of Ireland); XL Bowl - (Ten Pin Bowling Centre, Palmerstown, Dublin 20); Astro Park (astro-turf soccer pitches, Tallaght, Dublin 24); Athlone Leisure World - (leisure centres in Galway and Athlone - activities include video games, indoor sports and restaurants); Mortell's Delicatessen and Seafood Restaurant - (delicatessen and restaurant in Limerick).

3.52 Considered together, the above submissions all supported the liberalisation of the licensing laws to make it easier for clubs, leisure facilities, and restaurants to serve alcohol as an adjunct to their main business. These submission made the unfavourable international comparison between Ireland and other countries - in almost any other country in the world it is possible to enjoy a beer in a restaurant or on premises during or after bowling, tennis, soccer, or other type of athletic or social activity. In Ireland, beer may only be consumed at separate premises before or after engaging in any of these activities.

3.53 The Authority received submissions from a number of individuals. The more salient points contained in these submissions are as follows:

- (a) there are not enough pubs in Dublin to meet the increasing demands,
- (b) the difficulty in procuring a new off-licence is equal to the difficulty of obtaining a new on-licence,
- (c) the licensing laws should be relaxed to allow for the grant of pub licences on an unlimited basis subject to normal planning controls and suitability of the applicant, thereby allowing the development of small neighbourhood pubs,
- (d) an individual often cannot choose a suitable business location to commence a retail drinks trade because of the outdated licence requirements,
- (e) there are too many ambiguities in relation to opening hours of licensed premises.

Chapter 4

The Liquor Licensing Laws

Background

4.1 It is illegal to sell alcohol in the State without a licence. Beyond this simple statement, the liquor licensing laws defy easy summary or brief characterisation. The law itself has not been codified. The Licensing Acts, 1833 to 1995, comprise a multiplicity of statutes, including nine separate Intoxicating Liquor Acts. Accordingly, this Chapter does not purport to be a treatise on the workings of the liquor licensing laws or a history of its development. For that, the reader is directed to more specialised texts, such as *The Licensing Acts 1833-1995*, Cassidy, Round Hall Sweet & Maxwell, 1996.

4.2 An analysis of the myriad of Acts relevant to the retail sale of alcohol does isolate two elements. First, the Licensing (Ireland) Act 1902 (the “1902 Act”) constitutes a watershed in the development of the licensing law by introducing limits on the issue of new licences. Prior to the 1902 Act, there was no legal quantitative limit placed on the number of licences which could operate in the State at any one time. As one commentator noted:

“Up to the year 1902, the right of any person to apply to the licensing authorities for the grant to him of a licence for the sale of intoxicating liquor in Ireland was a common law right. That right was absolute and the licensing authorities were bound to hear the applicant for the particular form of licence sought.” Bernard Shillman, *The Licensing Laws of Ireland* (Dublin, 1941) p.1.

4.3 Under the liberal regulatory regime which existed prior to 1902, the number of licences proliferated. The number of licensed premises (public houses and refreshment houses with wine licences) in 1896 (on the island of Ireland) stood at 16,682¹ and in the 26 counties at 13,509. If we include the various off licences these figures rise to 18,380 on the island of Ireland and to 14,326 in the State. The 1902 Act provided that no new licences could be granted, except where particular, narrowly defined circumstances were met:

“From and after the passing of this Act no licence shall be granted for the sale of intoxicating liquors, whether for consumption on or off the premises, except...” . (Section 2 of the 1902 Act)

4.4 The purpose of the Act was to limit the number of licensed premises. J. Walsh noted in *Re Application of Power Supermarkets Ltd.*,

“The object of the Act was to safeguard the public interest by preventing a proliferation of licensed premises.”

As a result of the restrictive regulatory regime introduced in 1902, and refined by subsequent acts, the total number of licences in the State has declined and as at 1996 stands at 9,970², a decrease of 26% from the number in 1896.

4.5 The second defining element of the licensing laws is that licences are inalienably attached to the premises they serve. The premises themselves are physically distinct and

¹ Royal Commission on Liquor Licensing Laws Report 1899.

² Source: Revenue Commissioners. The figure includes six-day and six-day early closing licences.

constitute a single contiguous unit limited to the area set out in the licence. The licences are not transferable separately from the premises in a legal sense but may be transferred from premises to premises, under defined circumstances, by means of the extinction of an existing licence(s) which is the precondition to the grant of a new licence. The effect of this attachment of the licence to the physical premises it serves is significant. Since there are limits to the expansion of premises and licences are limited in their geographic mobility, the effect of the liquor licensing laws on competition in the retail drinks market inevitably varies over time and from place to place (See Chapter 5).

4.6 What follows is a summary of some of the main features of the liquor licensing laws, with emphasis placed on the legal barriers to entry and on the barriers which impede changes in use of licensed premises. Such barriers confront both the new entrants and incumbents who wish to change the manner in which they conduct business.

Public House Licence

4.7 This licence, often referred to as the “publican’s licence,” entitles the holder to sell alcohol on and off the premises to which the licence attaches at prescribed times. The licence is transferable with the attached premises and the most common method of entry into the publican market is by the purchase of an existing premises with licence.

4.8 Entry into the market is also possible by obtaining a new licence. A new licence is granted upon application to the courts provided the applicant is able to come within a statutory exception to the blanket ban on the granting of new licences. It is important to note that each such statutory exception involves the extinction of one or more existing licences. These grounds are outlined below:

- the revival of a licence which has lapsed within five years;
- the alteration of an existing premises;
- the move to another premises in the immediate vicinity due to the expiry of a lease or destruction or compulsory purchase of the prior existing premises;
- the issue of a licence to a rural premises provided it is not situated within one mile of another licensed premises of the same character as one granted before the passage of the Intoxicating Liquor Act, 1960 (to come within this exception, the applicant must extinguish two existing licences); and
- an urban premises provided an increase in population of defined proportions has occurred in the relevant city or town.

4.9 The first three exceptions outlined above only permit the continued use of a licence in the same location or in the immediate area of the prior premises. Therefore, the exceptions do not increase the geographic mobility of licences as the licences remained tied to the immediate area. These exceptions do not ameliorate the entry barrier which arises from the requirement that an existing licence be extinguished prior to the issuance of a new licence and the attachment of the licence to particular premises.

New Public House Licences -- Rural Areas

4.10 The fourth exception theoretically provides for the mobility of licences in rural areas as it does provide, under certain circumstances, for licences to be transferred from one location anywhere in the State to another rural location. The particular definition of rural area under the Licensing Acts is important. Rural areas are those areas “not situated in a county or other borough, an urban district or a town.” This geographic delimitation is not determined on the basis of the plain meaning of such words, whereby towns/urban areas would be defined by the present concentration of buildings or population, but refers to those geographic areas established as urban areas by law. Therefore, under law, there are five county boroughs (Cork, Dublin, Galway, Limerick and Waterford), four municipal boroughs (Clonmel, Drogheda, Kilkenny, Sligo and Wexford) and 26 towns and 49 urban districts. The Licensing Acts define as rural areas many of the areas of highest population density, including the Dublin suburban communities of Tallaght, Blanchardstown and Clondalkin.

4.11 The issuance of a new licence in rural areas is limited by three important restrictions: (i) two licences must be extinguished for each new licence created, (ii) the “one mile rule” prohibits the establishment of a licensed premises within one mile, measured by the shortest public thoroughfare, of an existing public house and therefore provides many incumbents with protection from competition, and (iii) other licensees may object to the award of the licence for the new premises in a rural area on a number of grounds, including the number of previously licensed premises in the neighbourhood or if they can demonstrate that the new licence “would be unreasonably detrimental to the business then carried on in some premises licensed for the sale by retail of intoxicating liquor in the neighbourhood.” Each restriction is analysed in turn.

4.12 The requirement that two licences be extinguished for every new rural licence issued is important. This introduces a significant cost to the acquisition of a new licence, as such existing licences have a significant value now estimated to be in the region of £45,000 (See Chapter 5). Therefore, the cost of entry into the rural market by the issue of a new licence is a minimum of £90,000. The effect of this 2 for 1 rule has been to reduce the total number of licences in rural areas, thereby increasing the scarcity and cost of existing rural licences and correspondingly driving up the cost of entry by this means.

4.13 The one mile rule is significant as it prohibits entry into what would otherwise be desirable locations. It is important to note that the one mile rule only operates in favour of certain incumbents -- those who were in existence prior to the coming in force of the 1960 Act (which was 4 July 1960) **and** who have not upgraded or expanded their premises since that date. Incumbents who lose protection of the one mile rule due to a subsequent upgrading or expansion of their premises may still make an objection regarding the granting of the new licence before the courts.

4.14 The grounds upon which incumbents can object to the issuance of a new licence in a rural area include qualitative criteria traditionally the domain of regulatory authorities, such as the character, misconduct or unfitness of the applicant and the unfitness or inconvenience of the new premises. The current rules provide incumbents with incentives to find fault with either the character or assets of new entrants. However, incumbents are provided with other grounds for objection based on the number of firms already in the relevant market and the effect of entry on incumbents. Any of these grounds may be invoked by incumbents to

restrict competition even if the grounds themselves were not intended for such use.³ Thus incumbents in the retail drinks trade are afforded protection from entry not available to firms in other markets and contrary to the competition rules prevailing throughout the economy.

New Public House Licences -- Urban Areas

4.15 The fifth exception to the issuance of new licences is limited to urban areas. The “city or town” exception to the blanket prohibition on the creation of new licences was given its current form by the Intoxicating Liquor Act 1962. This exception is an effort to address some of the geographical imbalances which had become apparent in the distribution of licensed premises due to the relative immobility of licences and the population increases in urban areas after 1902. The exception provides for the issuance of a licence attached to premises in a city or a town which has had the requisite population increase. To avail of the exception, the applicant must extinguish an existing urban licence and otherwise fall within the following criteria:

- the requisite population increase is not less than 25% over the population of the census of 1901 according to the most recent census of population;
- the city or town in which the new premises is to be located must have had the requisite population increase;
- if the civil parish within which the premises are located has had the requisite population increase, the existing licence to be extinguished must come only from a place within the city or town of the existing premises;
- if the civil parish within which the premises are located has not had the requisite population increase, the existing licence to be extinguished must come from within the city or town and within the parish of the existing premises.

4.16 The “city or town” exception does not permit the mobility of licences across the rural/urban divide. The extinguished licence must be a city or town licence and therefore the exception does not increase the total number of city or town licences. Furthermore, the exception does not permit the mobility of licences between cities or towns as the extinguished licence must come from within the same city or town as the new licence and in certain circumstances, as indicated above, from within the same parish. As the extinguished licence must be a city or town licence, it will have a high value (See Chapter 5) thereby constituting a formidable barrier to entry. Finally, the use of the exception may be prevented by incumbents who can object in court to the award of a new licence on the grounds of the “number of previously licensed houses in the neighbourhood.” Incumbents may object to the issuance of a new urban licence to protect their interests even if it is to the detriment of the interests of consumers or the public at large.

Hotel Licence

4.17 A hotel may operate a publican’s licence, subject to the same restrictions outlined above. In addition, a hotel may sell alcohol under two other types of licences.

4.18 A hotel may operate a licence awarded under the Tourist Traffic Act 1952. This Act made the operation of the licence granted to hotels subject to certain conditions, which included a limit on the total receipts from the sale of alcohol not exceeding one third of the

³ *re Powers Supermarkets* (1988) IR 206

total receipts from the business of the premises. Proof of the required proportion of receipts from the sale of alcohol was a precondition for renewal. The statutory basis for granting such a licence has been repealed and these licences may only be renewed upon production of a Bord Failte certificate.

4.19 A hotel may also operate a licence awarded under the 1902 Act. Under this Act, a hotel may be awarded a licence if it contains 10 separate units of accommodation or 20 such units if it is located in a County Borough. Such a licence may be awarded without the extinction of an existing licence. However, a hotel operating under this licence may not have a public bar although it may sell alcohol to the public (the “dispense bar”).

4.20 The Intoxicating Liquor Act 1960 provides that the prohibition on a hotel operating a public bar (as contained in the 1902 Act) may be removed if the applicant secures a publican’s licence for extinguishment. The licence extinguished may be from anywhere in the country.

4.21 It is important to note that as a result of the 1960 Act, the liquor licensing laws treat public bars in hotels differently than pubs. A hotel may be granted a new licence to operate a public bar by extinguishing an existing licence from anywhere in the country. A licence to open a pub may be granted only upon the extinguishment of a licence according to the geographical constraints previously noted.

Restaurant Licence

4.22 The licensing laws make an important distinction in the treatment of restaurants that serve only wine (meaning wine, sherry or any fermented liquor containing less than 23% volume of proof spirit--not beer) and those restaurants that serve wine, beer and spirits. A *bona fide* restaurant may serve wine by obtaining a wine retailer’s on-licence. The wine retailer’s on-licence is granted by the Revenue Commissioners (not the courts, as is the case with a publican’s licence) subject to a nominal fee (£200) and certain conditions, which include the production of a tax clearance certificate. The granting of a wine retailer’s on-licence is not subject to the quantitative or geographic constraints which attach to the issue of a publican’s licence and does not require the extinguishment of an existing licence.

4.23 Restaurants that wish to sell alcoholic beverages other than wine (as defined under the legislation) are subject to a different regulatory regime - they may operate only under a publican’s licence or a special restaurant licence. The holder of a publican’s licence may serve food without any legal quantitative barriers on entry into the food business. There are no legally prescribed limits to the number of restaurants that may operate in any area. However, the owner of a *bona fide* restaurant does confront such a quantitative entry barrier if he wishes to offer his customers the full complement of alcoholic beverages served by a publican.

4.24 In an effort to ameliorate this anomalous situation, and presumably to make it possible for restaurants to offer its customers a greater variety of beverages, the Intoxicating Liquor Act 1988 introduced the Special Restaurant Licence. The Special Restaurant Licence is an exception to the prohibition contained in the 1902 Act on the issuance of a licence only on the extinguishment of an existing licence--a restaurant need not extinguish an existing licence to obtain a Special Restaurant Licence. The Special Restaurant Licence is granted by

the Circuit Court to the owner and occupier of the premises who must produce a Bord Failte Certificate. The holder of a Special Restaurant Licence is expressly prohibited from having a bar. A Special Restaurant Licence can not be extinguished in any application for the grant of a new licence and therefore is not a separately tradable asset. Supply and consumption of alcoholic beverages may only take place:

- if ordered by or consumed by a person who has ordered a substantial meal;
- in the waiting areas of the restaurant prior to a meal by the person for whom the meal has been ordered, or if consumed by that person in the dining area of the restaurant either during the meal or at any time not later than 30 minutes after the meal has ended; and
- the alcoholic beverage is paid for at the same time as the meal.

4.25 Bord Failte grants certificates to restaurants that comply with the conditions set out in the Special Restaurant Licence (Standards) Regulations 1988. Such regulations include additional requirements, such as:

- meals must be ordered from and served at tables by waiting staff;
- total capacity of the dining area may not exceed 250;
- the restaurant must comply with the Food Hygiene Regulations;
- sanitary facilities must meet a minimum standard;
- the floor area of the waiting area does not exceed 20% of the floor area of the dining area of the restaurant.

4.26 The conditions attaching to a Special Restaurant Licence make it uneconomic for many restaurants to obtain a Special Restaurant Licence. Pubs which serve food are subject neither to the prohibitions on operating a bar nor compliance with the Special Restaurant Licence (Standards) Regulations. Therefore, the Intoxicating Liquor Act 1988 did not correct the anomaly which existed in the prior legislation as to the treatment of pubs that serve food and restaurants that serve drink. As of most recently available figures, 168 restaurants operate a Special Restaurant Licence.

Clubs

4.27 Clubs operate outside the confines of the 1902 Act and are not subject to the general prohibition on the granting of new licences. The Registration of Clubs Act, 1904 provides for the grant and renewal of a certificate of registration of a club. Such a certificate of registration authorises the club to sell alcoholic beverages.

4.28 The grant or renewal of a certificate of registration is subject to conditions which include the following:

- the club must be a *bona fide* club and comply with rules as to operation and governance in compliance with the Registration of Clubs Acts 1904 to 1995;
- members of the committee or persons employed in the club must not have a personal interest in the sale of alcohol;
- visitors (non-members) may only be served alcoholic beverages on the invitation and in the company of a member.

4.29 The conditions attaching to the registration of a club preclude the club from operating as a pub or otherwise serving the general public. Nevertheless, registered clubs have proliferated (See Table 5.7).

Off-licences

4.30 The same restrictions which apply to the grant or renewal of a publican's licence apply to the grant or renewal of an off-licence that sells beer and/or spirits. Wine merchants are regulated under a different regime. A wine retailer's off-licence is granted without the requirement of a court certificate.

Night-clubs

4.31 Night-club operators must hold a full licence, subject to all the restrictions outlined above, to serve alcoholic beverages at their premises. In order to qualify for late night opening hours, the night-club must obtain a special exemption order from the courts. A special exemption order can only be granted in respect of a premises which is either a hotel or the holder of a restaurant certificate under the 1927 Act. The special exemption order is available for a short term and sets the hours the operator can keep open the premises as well as other conditions under which the night-club owner must operate, such as providing substantial meals. In addition, the operator of a night-club must apply for a public dancing licence under the Public Dance Halls Act 1935.

Chapter 5

The Distribution of Licences and Associated Competitive Effects

5.1 The variation in the number of licences throughout the nineteenth century shows how the number of licences responded to demand conditions under a more liberalised licensing regime (See Table 5.1). In 1838 there were 21,326 public house licences on the island of Ireland. This fell dramatically during the famine years to 13,018 in 1843 and increased back to 16,531 in 1882.

5.2 According to the 1841 census, the population of Ireland was 6,528,799 and this population was served by 14,162 public houses. This represents a public house for every 461 people. In 1882 there were 16,531 pubs for a population of 3,870,020 (according to the 1881 census). This represents 234 people per pub at this time.

5.3 To examine the impact of the introduction of the 1902 Act and the licensing system, Table 5.2 is presented at the end of the chapter. This shows the situation on a county by county basis in 1896 (before the 1902 Act was passed) and in 1996.

5.4 On examining the Table, we can see that in the years since the introduction of the 1902 Act the number of people per pub in the State has risen by some 46%, from 248 persons per pub in 1896, to 362 in 1996. On further inspection it can be seen that in 12 counties the numbers of persons per pub has actually fallen, as these counties have experienced dramatic falls in their population in the past century⁴. County Dublin on the other hand has experienced an almost 190% increase in the numbers of people per pub. This rise is repeated in the counties bordering Dublin; Kildare (127% increase), Louth (87% increase), Meath (91% increase) and Wicklow (87% increase).

5.5 From Table 5.2, the (unweighted) standard deviation of the person per pub (using the county as a unit of observation) was 62 in 1896 and rose to 194 in 1996. From this (and the evidence in paragraph 5.4) we can see that not only has the average number of people per pub risen but the level of dispersion, across counties, has also increased. In general, counties are less well served in terms of numbers of pubs than they were 100 years ago and the difference between counties (along this dimension) has increased.

5.6 The distribution of licences in 1896 took place in a free entry regime and this can be used to make inferences about the changes that have taken place in the light of licensing legislation that has followed on from the 1902 Act. From this it can be seen that Dublin had significantly more people per pub than did the rest of Ireland before the introduction of licensing restrictions. In fact Dublin had a number of people per pub which was a little over two standard deviations away from the mean (using the county as the unit of observation). This is normally taken as a statistically significant difference. However, by 1996 the number of people per pub in Dublin was some four standard deviations above the mean (on a county by county basis). To maintain Dublin's position relative to the mean of the distribution there would have to be 1,458 pubs in the county in 1996 (an increase of 54% over current numbers).

⁴ These counties are Longford (in Leinster), Clare and Kerry (in Munster), all counties with the exception of Galway in Connacht and the three Ulster counties.

5.7 In Table 5.3, the situation on a county by county basis is compared between 1886 and 1896. Included is the number of new licences applied for and the number granted. This table serves to illustrate the level of churning that was occurring in the pub market at the end of the last century. In the ten years to 1896 the numbers of licences would have increased by 2,720 (or 21%) in the absence of exits. Given the net increase over the decade of 568, we can see that 2,152 publicans licences exited the industry (or 17% of the 1886 total). This leaves a net increase of 4% over the decade. This table illustrates that in the late nineteenth century there was considerable entry and exit (churning) in the licensed trade. It is interesting to note that, in net terms, the number of pubs in Leinster fell (particularly in Dublin) whilst, in the areas where population was falling fastest, the numbers of pubs was actually rising. This may be due to more lax application of the licensing laws in those areas. For example, in Dublin, only 13% of applications for new licence applications were granted, as compared to 83% in Leitrim. The 1899 Report remarked on the level of corruption in the issuing of licences in the State in the last century - a practice said to be endemic in some rural areas.

5.8 A comparison between the Republic and Northern Ireland is interesting. In 1896, in what is now Northern Ireland there were a total of 3,173 pubs. This translates into a total number of pubs in 1896 on the island of Ireland of 16,682. In 1896 in Northern Ireland there were 1,236,504 people (using figures from the 1891 and 1901 censuses, CSO Statistical Abstract 1996). This translates into a number of persons per pub in Northern Ireland in 1896 of 390 which is higher than the current figure in the Republic⁵.

5.9 The large and immediate impact of the 1902 Act can be seen in the 1925 Report of the Intoxicating Liquor Commission, which stated that the number of people per pub in Dublin had risen to 700. According to the 1926 census the population of Dublin (county and borough) was 505,654. With 700 people per pub this roughly translates into 722 pubs in Dublin in 1925. This is a considerable drop in the number of pubs from the introduction of the 1902 Act (a 35% drop) and indicates a large number of pub closures in the first few years after the introduction of restrictions on pub licences. In this century, the number of public house licences in Dublin has fallen from 1,119 in 1896 to 946 in 1996, in spite of the transfer of rural licences into the Dublin area. The number of people per pub in Dublin in 1996 was 1,119. This represents an almost 300% increase in the number of people per pub in Dublin since the introduction of the 1902 Act.

5.10 From Table 5.4 the total number of public house licences in 1996 was 9,970 compared to 13,427 in 1925 (1925 is the first year after implementation of the quantitative limits in 1902 for which we have authoritative information from the Revenue Commissioners) -- a decrease of over 25%. The decrease in the total number of licences is a direct result of the quantitative limits on licences imposed by the 1902 Act and subsequent legislation. The number of public house licences in existence from year to year following the introduction of the 1902 changes is relatively stable (compared to the variations seen in the eighteenth century) and significant fluctuations in numbers of these licences between years reflect anomalies in the registering of licences rather than fluctuations in the actual number of premises in operation.

⁵ In 1971 in Northern Ireland the number of pubs was 2,336 [E. J. D. McBrien, *The Liquor Licensing Laws of Northern Ireland*, Gill & Macmillian]. From the 1971 census, the population of Northern Ireland was 1,536,065, which translates into a population per pub of 657. This is a rise from 591 persons per pub in 1961.

5.11 Similar patterns can be seen over the relevant period when examining the distribution of public house licences by county. From Table 5.2, at the turn of the century Dublin had 8.3% of the pubs and 13% of the population. In 1925 Dublin had 1 pub per 700 people (1925 Intoxicating Liquor Commission Report) or 5% of the total number of licences in force (even though Dublin had 17% of the population). In 1996 Dublin County had 946 licences or 9% of the total number of licences in force (See Table 5.2) even though Dublin had 29% of the total population of the State. What can be deduced immediately is that the regional disparity in licences since the 1902 Act has progressively worsened as more and more of the population gravitates to Dublin. From Table 5.5 at the end of the chapter, the number of public house licences in Dublin has been stable in recent years, with the exception of 1996, when Dublin experienced an increase of 107 public house licences, an increase of 13%⁶. Such an increase is due principally to the construction of hotels with public bars in Dublin.

5.12 By historic standards, Dublin is underpubbed. There were more than 1200 licensed premises in Dublin in the 17th century (William Petty, 1691, 1970 edition, p. 13). At the end of the last century there were 1,119 public house licences in Dublin (Report of the Royal Commission on Liquor Licensing Laws published in 1899, reporting on the number of licences in Dublin in 1896). This translated into 388 people per pub in Dublin in 1896. The decrease in the total number of licences and the regional disparity in the distribution pattern of public house licences during this century is the enduring legacy of the 1902 Act.

5.13 The world has changed since 1902. Demand patterns have changed substantially as a result of demographic changes, changes in behaviour, increases in tourism and other factors. The distribution of population throughout the State has witnessed a dramatic increase in population in urban centres, particularly Dublin. The licensing laws have prevented the distribution of licences from following this pattern. In the last century, the population of the State has increased by approximately 12% (the population of the State, as now defined, in 1901 was 3,221,823 and was 3,626,087 according to the 1996 census). The distribution of the population has changed more dramatically, both geographically and by age. In 1901, some 13.4% (or 448,206 people) lived in Dublin city and county. In 1996 this proportion had risen to some 29% (or 1,058,264 people) of the overall population. If we were to include the conurbation which stretches into Wicklow, Kildare, Meath and Louth this shift in population would be even more dramatic. This migration to the capital is reflected in an increase in the early active age population (which are the years in which individuals migrate). To see this in full relief, in 1996 34% of the people in the age group 20 to 34 years old in the State lived in Dublin (an area with 9% of the public house licences).

5.14 On top of the demographic developments there has been a major shift in the attitude to and the practice of women frequenting pubs since the 1950s. Even though there were one thousand pubs in Dublin at the turn of the century and a population of almost half a million, over half of these were infrequent users of public houses. So, in essence, we have an explosion in that part of the population living in Dublin and frequenting public houses at the same time that the number of public houses has actually fallen.

5.15 The cap on the number of licences and the tying of market entry to exit has introduced structural rigidities to the market and led to an ever widening imbalance between the ratio of

⁶ The thorough reader will notice the discrepancy between the number of licences in Tables 5.4 and 5.5. The Revenue Commissioners explain this as the (more accurate) figures in Table 5.5 refer to licences issued in respect of a licensing year, whilst those in Table 5.4 relate to licences issued during a licensing year.

population to licensed premises from county to county and particularly between Dublin and rural areas. (See Tables 5.2 and 5.5). Dublin has one licensed premises for every 1,119 people; the ratio outside of Dublin is one licensed premises for every 283 people (from Table 5.2).

5.16 The geographic imbalance in licences becomes more pronounced when particular areas within Dublin are examined, such as the newer Dublin suburbs. Tallaght has a population of approximately 62,000 and has 20 licensed premises- 3,100 people per licensed premises. In the returns for the 1899 Royal Commission Tallaght had 16 pubs and a population of 4,279 (or 267 people per pub). Blanchardstown has a population of approximately 39,000 and has 3 licensed premises- 13,000 people per licensed premises. Again going back to the situation in 1896, Blanchardstown had a population of 3,492 and 10 pubs (or 349 people per pub). This contrasts with more established areas (meaning those areas already established in 1902) such as Limerick City which has a population of approximately 52,000 and has 200 licensed premises - 260 people per licensed premises⁷. In 1896, Limerick had 209 pubs for its then population of 37,165. These anomalies are well known.

5.17 Licensed premises in Dublin not only have more people per outlet than other premises throughout the country, but also have a proportionately larger turnover per outlet. According to the VFI, 14.7% of all public houses in Dublin have an annual turnover of more than £1m compared to only 0.5% of public houses outside of Dublin.

Table 5.6: The Turnover of Spirit Retailers On-Licences Issued (1993-1995) in Dublin and the Rest of the State

IR£'000	Dublin	Rest of the State
0-150	99 (1%)	7,052 (99%)
150-300	187 (11%)	1,469 (89%)
300-500	189 (30%)	438 (70%)
500-750	152 (48%)	165 (52%)
750-1,000	103 (67%)	50 (33%)
1,000 +	126 (73%)	46 (27%)

Source VFI. The percentages are row percentages.

5.18 As we can see from Table 5.6 above almost 99% of pubs in the State with turnover below IR£150,000 are outside Dublin. This is in stark contrast with the fact that 73% of pubs with turnover above IR£1m are in Dublin. In addition, the Authority was presented with evidence that substantial amounts have been expended on refurbishment of premises in Dublin (See summary of submission of IBF, Sections 3.25-27). This is widely reported and accepted throughout the trade.

5.19 Given the large catchment area of Dublin premises (in terms of population) and the premium attaching to a premises in a system where additional demand for product can often only be met by physically expanding through adjoining walls, the size of Dublin pubs is not surprising. Dublin public houses are bigger than their rural counterparts, and are getting bigger. This increase in the size of Dublin pubs is especially evident in the vastly under-pubbed suburbs. (See Table 12.3 in Massey P. and O'Hare P.: *Competition Law and Policy in Ireland*, Oak Tree Press, 1996).

⁷ Source: Corporate Efficiency Analysis on behalf of VFI

5.20 The respective value of Dublin and rural licences reflects the rigidities inherent in the licensing laws and the distortions caused when those rigidities constrain entry and exit in a dynamic market with changing patterns of demand. Rural licences can be purchased for approximately £45,000. A Dublin parish licence has a market value of a minimum of £150,000, with licences in sought-after areas changing hands for around £500,000 (See IAVI Property Valuer, Winter 1997).

5.21 A crude measure of the capitalised costs (deadweight losses) that the present licensing system imposes on society is the value of the licences in, and of themselves separate from, the premises to which they are tied. The value of the licences at present when valued at marginal valuations is over half a billion pounds⁸. The growing value of licences, particularly in Dublin, is indicative of greater margins being achieved by publicans. Information on margins broken down by geographic areas is not available, but information on average margins is available. The Annual Services Inquiry estimated that average margins on public houses increased from 33% to 37% from 1988 to 1991.

5.22 With the value of a licence so great, it is not surprising to see an increase in recent years of those types of premises where entry is possible under the licensing laws, namely, clubs and hotels. Table 5.7 below shows that in 1986 there were 658 clubs registered in the State. In 1996, this figure had risen to 919, an increase of almost 40%. The number of hotels registered with Bord Failte was 650 in 1986. This number had increased to 713 by 1996, an increase of almost 10%. During the same period, the number of public house licences has decreased by 12% (Table 5.4).

5.23 It is difficult to correlate the imbalance outlined above with any structural differences inherent in the rural/urban divide. The change in the number and distribution of licensed premises throughout the country in this century contrasts sharply with the change in number and distribution of other retail establishments during the same period. These establishments have experienced far greater change in numbers and distribution patterns, particularly when looked at from a rural/urban perspective. Other retail establishments have been responsive to obvious changes in demand patterns (See Table 5.8 below).

Table 5.8: Distribution of Various Shops in Dublin and the rest of the State 1977-1988

	Dublin 1977	State (ex Dublin) 1977	Dublin 1988	State (ex Dublin) 1988
Tobacco, Sweets & Newspapers	618 (26%)	1,786 (74%)	514 (30%)	1,175 (70%)
Chemist	303 (28%)	786 (72%)	267 (26%)	772 (74%)
Population	983,683 (29%)	2,384,534 (71%)	1,021,449 (29%)	2,519,194 (71%)

Source: CSO, 1977 Census of Distribution, 1988 Census of Services and the census of 1979 and 1986 Census.

5.24 Looking at Table 5.8 above, we can see that in 1977 Dublin had 29% of the population of the State and 26% and 28% respectively of tobacconists-newsagents and chemists respectively. In looking at the situation a decade later we can see that, even though

⁸ There are 9,072 rural licences which are valued at IR£45,000 each which equals IR£408,240,000. In addition to this there are 946 Dublin licences valued at (minimum) IR£150,000 each which equals IR£141,900,000. All of this gives a grand total IR£550,140,000.

the population has increased in Dublin, the capital is even better served by tobacconists-newsagents and only slightly less well served by chemists. Overall, Dublin does not exhibit a dearth of tobacconists-newsagents or chemists vis-a-vis the rest of the country like it does in public houses. Of course, other retail establishments operate without a tradable licence and therefore entry is not tied to exit and is not restricted by this barrier⁹.

5.25 However despite their disproportionate impact in Dublin, the licensing laws distort competition in rural areas as well. The value of rural licences is distorted by the licensing laws, which confer an additional value on rural licenses for transfer to Dublin hotels. Therefore, these licences have a value higher than they would if they could only be used to operate in rural areas. Of course, rural licences enjoy other protections from competition, including the “one mile rule” and the “two for one” scheme outlined in Chapter 4. For these reasons, it is not surprising to find that many otherwise viable economic uses of rural licences have been artificially priced out of the market for licences by the licensing laws. The Authority was presented with evidence of many such potential licensees whose entry was effectively foreclosed from the market (See summary of submission by Licensing Information & Consultancy Services, Sections 3.15-17).

5.26 As shifts in demographic and behavioural patterns continue to move the market away from the situation in 1902, it can be expected that the licensing laws will have an ever greater distorting effect on the retail drinks market.

Table 5.1 Public Houses on the Island of Ireland in the Eighteenth Century

Year	Public Houses
1832	18,234
1833	20,629
1834	19,435
1838	21,326
1839	20,303
1840	16,199
1841	14,162
1842	13,063
1843	13,018
1844	13,514
1858	17,000
1865	15,404
1882	16,531
1896	17,300 ¹⁰

Source: Royal Commission on Licensing Laws, 1899

⁹ This is no longer true in the case of chemists where a licensing system similar to that of pubs has been introduced with rules on where a new chemist can locate both in cities and in rural areas.

¹⁰ This figure does not square with the figure derived from the county by county table which was produced as part of the Royal Commission on Liquor Licensing Laws. The same is true, however, for the 1996 totals and the county by county totals in Tables 5.2 and 5.3.

Table 5.2: Publican Licences by County 1896 and 1996

Province/County	Population 1996	Publicans Licences 1996 (1) (2)	Population per Licence 1996	Population 1896 ¹¹	Publicans Licences 1896	Population per Licence 1896
Leinster	1,924,702	3,216	598	1,170,295	4,124	284
Carlow	41,616	117	356	39,342	143	275
Dublin	1,058,264	946	1,119	433,711	1,119	388
Kildare	134,992	221	611	66,886	249	269
Kilkenny	75,336	242	311	83,210	357	233
Laois	52,945	169	313	61,150	257	238
Longford	30,166	128	236	49,660	191	260
Louth	92,166	249	370	68,429	346	198
Meath	109,732	225	488	72,242	282	256
Offaly	59,117	154	384	62,875	215	292
Westmeath	63,314	232	273	63,369	269	236
Wexford	104,371	340	307	107,941	480	225
Wicklow	102,683	193	532	61,480	216	285
Munster	1,033,903	3,888	266	1,124,295	5,827	193
Clare	94,006	419	224	118,409	506	234
Cork	420,510	1,398	301	421,522	2,279	185
Kerry	126,130	622	203	172,431	747	231
Limerick	165,042	550	300	152,505	863	177
Tipperary	133,535	599	223	166,710	886	188
Waterford	94,680	300	316	92,719	546	170
Connacht	433,231	1,992	217	685,853	2,403	285
Galway	188,854	677	279	203,631	769	265
Leitrim	25,057	169	148	73,981	195	379
Mayo	111,524	622	179	209,100	769	272
Roscommon	51,975	306	170	108,094	349	310
Sligo	55,821	218	256	91,048	321	284
Ulster (part of)	234,251	922	254	364,816	1,155	316
Cavan	52,944	256	207	104,729	375	279
Donegal	129,994	527	247	179,679	585	307
Monaghan	51,313	139	369	80,409	195	412
State	3,626,087	10,018	362	3,345,259	13,509	248

Source: Royal Commission on Liquor Licensing Laws 1896-1899.

¹¹ The 1896 population figure is an estimate. It is the arithmetic average of the population figures from 1891 and 1901.

Table 5.3: Change in the Number of Licences by County 1886-1896

Province/County	Publicans Licences 1896	Publicans Licences 1886	New Licences applied for 1886-1896	New Licences Granted 1886-1896	Net Increase 1886-96
Leinster	4,124	4,150	1214	482	-26
Carlow	143	144	5	1	-1
Dublin	1,119	1,170	314	42	-51
Kildare	249	233	17	8	16
Kilkenny	357	363	30	19	-6
Laois	257	267	74	33	-10
Longford	191	196	69	22	-5
Louth	346	347	292	234	-1
Meath	282	294	21	7	-12
Offaly	215	210	73	13	5
Westmeath	269	256	99	29	13
Wexford	480	472	172	59	8
Wicklow	216	198	48	15	18
Munster	5,827	5,652	2424	1128	175
Clare	506	545	418	172	-39
Cork	2,279	2,142	374	194	137
Kerry	747	731	560	225	16
Limerick	863	855	343	167	8
Tipperary	886	836	588	262	50
Waterford	546	543	141	108	3
Connacht	2,403	2,012	1689	835	391
Galway	769	719	475	185	50
Leitrim	195	182	84	70	13
Mayo	769	648	664	324	121
Roscommon	349	255	196	113	94
Sligo	321	208	270	143	113
Ulster (part of)	1,155	1,127	659	275	28
Cavan	375	354	258	143	21
Donegal	585	566	347	115	19
Monaghan	195	207	54	17	-12
State	13,509	12,941	5986	2720	568

Source: Royal Commission on Liquor Licensing Laws 1896-1899.

Table 5.4: Number of Publicans Licences 1925 to 1996

Year	Full	Early Closing	Six Day	Six Day and Early Closing	Hotel	Restaurant	Total
1925	10,981	89	1,624	477	249	7	13,427
1935	10,242	84	1,456	404	332	12	12,530
1945	9,968	79	1,371	354	361	9	12,142
1955	9,953	70	1,251	284	396	8	11,962
1965	11,161	37	422	132			11,752
1966	11,096	37	402	126			11,661
1967	11,127	37	398	131			11,693
1968	11,060	35	375	115			11,585
1969	11,017	22	372	114			11,525
1970	11,085	37	338	111			11,571
1971	10,992	35	330	107			11,464
1972	10,914	35	304	97			11,350
1973	10,761	35	301	92			11,189
1974	10,404	24	289	81			10,798
1975	10,580	24	279	81			10,964
1976	10,269	21	270	73			10,633
1977	10,898	22	270	95			11,285
1978	9,924	22	226	68			10,240
1979	7,403 ¹²	22	160	42			7,627
1980	13,284	22	367	43			13,716
1981	10,916	22	260	70			11,268
1982	9,301	22	188	49			9,560
1983	10,217	22	205	60			10,504
1984	9,274	22	141	54			9,491
1985	10,833	6	208	61			11,108
1986	11,187	3	183	60			11,433
1987	10,962	4	204	59			11,229
1988	11,079	4	201	51			11,335
1989	10,843	3	164	53			11,063
1990	10,279	3	139	48			10,469
1991	10,670	4	137	61			10,872
1992	6,495	54	21	26			6,596
1993	10,035	108	12	35			10,190
1994	9,349	631	9	36			10,025
1995	12,117	46	78	25			12,266
1996	9,861	.	85	24			9,970

Source: The Revenue Commissioners

The figures relating to full licences until 1945 include theatres, places of entertainment etc. and railway refreshment rooms. Up to and including 1974 figures relate to the year ending 31 March. The figures for 1975 to 1995 relate to the year ending 31 December. The 1996 figures relate to the year ending on 30 September 1996. From 1965 the official statistics are not in a form which shows hotel licences separately from public house licences.

¹² Some 120 licences are not shown due to delays in renewal.

Table 5.5: Total Publicans' Licences for each Licensing Year By County

COUNTY	1990/91	1991/92	1992/93	1993/94	1994/95	1995/96
Carlow	127	127	125	125	119	117
Cavan	270	272	263	256	253	256
Clare	412	410	430	429	445	419
Cork	1,435	1,440	1,409	1,415	1,358	1,398
Donegal	560	557	533	527	520	527
Dublin	844	847	839	836	839	946
Galway	689	683	668	651	663	677
Kerry	527	535	546	570	588	622
Kildare	222	222	218	218	216	221
Kilkenny	268	264	257	255	251	242
Laois	171	175	174	177	175	169
Leitrim	180	180	175	176	172	169
Limerick	506	510	511	513	523	550
Longford	138	142	139	137	130	128
Louth	257	259	248	250	253	249
Mayo	670	665	646	638	629	622
Meath	236	238	232	230	225	225
Monaghan	149	156	151	152	149	139
Offaly	140	147	150	153	152	154
Roscommon	324	319	310	307	297	306
Sligo	226	222	215	221	221	218
Tipperary	586	586	594	591	592	599
Waterford	312	311	308	308	307	300
Westmeath	194	200	201	207	218	232
Wexford	371	369	362	358	353	340
Wicklow	198	200	198	194	194	193
TOTAL	10,012	10,036	9,902	9,894	9,842	10,018

Table 5.7: Other Licensed premises, clubs and hotels

Year	Other On-Licences (Not publicans' Licences)	Clubs Registered	Hotels registered with Bord Failte
1965	270	*	720
1966	301	*	721
1967	404	267	723
1968	465	324	729
1969	560	330	755
1970	669	353	785
1971	785	342	793
1972	933	362	806
1973	997	406	795
1974	1,075	448	765
1975	1,327	464	714
1976	1,469		691
1977	1,797		696
1978	1,919		707
1979	1,870		707
1980	1,579		714
1981	1,687		720
1982	1,686	602	702
1983	1,769	614	659
1984	1,862	636	656
1985	1,884	625	643
1986	2,245	658	650
1987	2,155	707	664
1988	2,277	726	680
1989	2,234	760	680
1990	2,046	777	658
1991	2,520	747	668
1992	1,436	769	679
1993	1,707	748	680
1994	1,850	789	676
1995	2,311	836	717
1996	2,010	919	713

* Figures not available for these years

Sources: Revenue Commissioners, Dept. of Justice, Bord Failte

Note: For other on-licences, the figures up to and including 1974 relate to year ending 31 March, the figures for 1975 to 1995 relate to the year ending 31 December; the 1996 figures relate to the year 1 October, 1995 to 30 September 1996. Clubs registered relate to year ending July; hotels registered relate to the year involved.

Chapter 6

Effects Of The Licensing Laws On The Retail Drinks Market

6.1 The Competition Authority commissioned Colm Harmon and Anthony Murphy of the Department of Economics at University College Dublin to undertake an econometric analysis of the effects of the licensing laws on the demand for alcohol in the State. The microeconomic data utilised was the most comprehensive and reliable information available, the 1987 and 1994 Household Budget Surveys and quarterly price series data (1983-1997), both supplied by the CSO. The full report is attached in Appendix A.

6.2 Harmon and Murphy reviewed the economics literature on the UK market and found a positive relationship between demand for alcohol and the number of licences. An increase in demand for alcohol leads to an increase in demand for licences and vice versa. Thus, there is statistical evidence of direct linkage between the number of licences and the demand for the products. An increase in the demand for alcohol will give incentives for new licences to open up which will in turn increase the demand for alcohol. In a market in which entry is restricted, demand increases that occur due to income and demographic movements will manifest themselves in increases in prices in the short run and in the long run. Harmon and Murphy cite references that show that, in the case of the UK, where entry is not artificially restricted in any specific geographic area, the market is characterised by a lack of any persistent price differential between rural and urban areas.

6.3 Harmon and Murphy reviewed the Irish retail drinks market using a more extensive database and a more sophisticated modelling procedure than used in the UK studies. Econometric analysis of the database indicates strong positive relationships between the demand for alcohol and being resident in Dublin (or any urban area) and income. Thus, all else being equal (i.e. two individuals with the same age, marital status, numbers of children etc.), residency in Dublin and a higher income will increase an individual's demand for alcohol. This result adds even more emphasis to the relative scarcity of pubs in the Dublin region. Not only do Dubliners have higher demand for alcohol, they also have far fewer pubs per person. The impact of this on prices in Dublin and rural areas can be seen in time series evidence which shows that a persistent gap exists between the Dublin region and rural/small town prices across a range of products sold at on-sales premises.

6.4 This finding is at odds with that of the UK literature where there are no statistically significant differences in on-trade prices as between urban and rural areas. This gap between the Dublin region and rural/small town prices persists after controlling for differences in consumer expenditure patterns by product in the different geographical areas. This suggests that if demand patterns were to become uniform throughout the State there would still be a price premium in the Dublin region.

6.5 Harmon and Murphy found stronger demand in the Dublin area, mainly stemming from the influence of the relationship with income. This can be seen in the skew in the income distribution towards Dublin. In the context of the UK findings, this higher demand would lead automatically to an increase in the demand for licences which, when granted, would lead to a fall in the price of alcoholic products. The existence of the new licences would also positively influence demand as there is a two-way causal relationship between licences and demand. The ultimate impact on prices is unclear, as it will depend on how

responsive supply is to price increases and how much of this increased supply impacts on demand. However, output will unambiguously rise and the tendency for prices to rise will be lower the more elastic is the supply curve in the long run.

6.6 This feedback mechanism is short-circuited in the Irish market by the almost total lack of new licences (new in the sense that they are new to the growing Dublin market). In this respect we can view the long run supply curve in Dublin as being very inelastic. Thus, increases in demand will be translated into more price inflation than output increases. The persistent gap between Dublin and the rest of the country in on-sales prices indicates that restrictions exist on the freedom of entry and exit from the market. The evidence suggests that the gap is growing, with a clear acceleration in Dublin prices in the past three years. Harmon and Murphy quantified the current gap between Dublin and non-Dublin on-sales prices at 6% on the average price of a pint of stout sold for consumption on licensed premises. The Dublin non-Dublin price gap widens in respect of spirits (7-9%), foreign lagers and beers (10%) and other beers and lagers (10-12%).

6.7 Harmon and Murphy contrast the on-sales price differential along regional lines with the experience in the off-sales market. The entry of supermarket chains and other multiples into this market has increased competition, particularly in areas of high population density. Here, the Dublin non-Dublin price variations exhibit a very different pattern than the on-sales market. Here, the differential in favour of Dublin has been on the order of 5%, with some evidence of convergence as the gap has closed to 2-3% in the most recent time period surveyed. Hence, competition can be effective in reducing prices in Dublin, and Dublin drink prices need not be inherently more expensive than their non-Dublin counterparts.

6.8 The lower prices in Dublin can be attributable to the number, size and nature of the Dublin off-licences. In terms of cost differences there are transport costs which would increase rural off-licence prices. This is off-set, however, by lower costs for other inputs such as labour and property. In essence, Dublin off licences are larger, more numerous (on a per person basis, especially when we take into account the distances involved) and are, more often than not, separate entities to pubs. The final point is important as a pub which has an off licence attached invariably charges higher prices for off-sales than do equivalent independent off-licences. The reason for this is that a pub with an off-licence runs the off-licence as a complement to the business of the pub, whilst an independent off-licence runs its business as a substitute for the public house. Hence the publican who runs an off sales outlet has an incentive not to take away business from the profitable on sales section and thus charges higher prices than do off licences in general. The independent off licence is in direct competition with the publicans and will compete on price to encourage people to substitute take away drinks in place of consuming alcohol on the publicans' premises.

6.9 The Authority examined the Dublin non-Dublin spread of prices of fast food meals. This area was chosen as the goods are consumed away from the home and it has an element of a bundled good, combining the product consumed and the place of consumption. As can be seen from Table 6.1 below whilst the price of stout in public bars in February 1998 was, on average some 7.5% cheaper in the non-Dublin areas, on average fast food meals were 1.5% more expensive.

Table 6.1: Comparison of Price Indices of Stout and Fast Food Meal in the State (February 1998)

	Dublin	State (ex Dublin)
Stout	100	92.5
Fast Food Meal	100	101.5

Source: CSO

Hence the above data shows that in the fast food industry with more liberalised entry there is no tendency for prices to be higher in Dublin as opposed to the rest of the State.

6.10 The lack of a Dublin premium in the fast food sector price is consistent with the lack of a positive price effect in Dublin pubs because of higher running costs in pubs in Dublin. We can gauge the profitability of Dublin pubs from the prices obtained when the pubs are sold - sale prices of pubs reflect the turnover of the business and the goodwill in the enterprise. If Dublin pubs suffer from higher costs base they must, by definition, be less profitable than the non-Dublin pubs. The high valuation of pubs in the Dublin area, as compared to their rural counterparts, suggests, on the contrary, that the business is highly profitable one. Here, higher prices in Dublin contribute to higher profitability and are not needed to cover higher costs.

Chapter 7

Entry Barriers -- Some Theoretical Insights

7.1 Entry barriers arise out of a distinction between incumbent and entrant firms in a market. Entry barriers are said to exist when some requirements for entry are uniquely available to an incumbent. Entry barriers include any obstacle to efficient contracting between consumers and would-be entrants which would affect an eventual market equilibrium.¹³ Properly understood, many obstacles faced by potential entrants to a market, such as the competitive advantages enjoyed by incumbents due to their investments made and goodwill earned, are not entry barriers -- such advantages are not uniquely available to incumbents since entrants can also invest in their enterprise and build up goodwill over time.

7.2 Entry barriers are inherent in any assignment of property rights. A licensing requirement is a barrier to entry if the number of licences available is less than the number of outlets (in this case licensed premises) that would operate without such a requirement. This is clearly the case in the drinks market in the State.

7.3 Absolute incumbent advantages exist in the Irish drinks market in the form of entry barriers due to the licensing laws. Entry is only possible by way of a licence. Licences are obtained by purchasing an existing licence as the circumstances in which "new" licences are issued are limited. The entrant then may trade under the old licence or, under certain conditions, extinguish the old licence in exchange for a new licence. Entry therefore is not totally blockaded as licences are tradable and a secondary market in licences exists. The licensing restriction not only restricts supply but also creates a capacity constraint to any demand-induced response in the market. If there are entry barriers and profits and rents accrue to incumbents, less efficient firms could, in the absence of competition, stay in the market. This represents a welfare loss as, in the absence of capacity constraints, more output could be produced at lower costs by more efficient firms.

7.4 To determine the effect of the licensing laws or any other entry barrier on entry it is necessary to understand the incentives to enter *ex ante*. Entry into the retail pub trade or any other market is likely if it is expected to be profitable. It is only profitable if the entrant's mark-up over the incremental cost of access and service production exceeds the opportunity cost of access. The opportunity cost of access includes all potential earnings that the entrant forgoes. In a market where entry is regulated by licence and the licence must be effectively purchased from an incumbent, the entry price therefore includes the opportunity costs of the incumbent. In other words, in such a market, the entry price includes the price that the incumbent would demand before he would voluntarily agree to exit. Such a cost includes the full cost to the incumbent of parting with his asset which always includes the licence and may include the bundled asset of the licence and all attaching property.

7.5 The nature of entry into a market offers an important structural contributor as to how incumbents and potential entrants create and respond to capacity in the market. The principal source of potential competition comes from outside the market. In the Irish retail drinks market, the incumbents have a first mover advantage in the form of the licence acquired historically.

¹³ Demsetz (1982) 'Barriers to Entry' *American Economic Review* pp47-57.

7.6 The economic effect of entry barriers is inefficiency in the optimal use of resources and a reduced consumer surplus. Protected by entry barriers enshrined in law, incumbents can make long-run or persistent profits in excess of that earned by firms in fully competitive markets without being more efficient than potential entrants. Restrictions on entry affect net entry which is a crucial parameter to the creation of new capacity in the market¹⁴.

7.7 Market imperfections, such as the licensing laws, define the nature of entry; they are inherent in any undesirable assignment of property rights and give rise to or perpetuate X-inefficiencies in the market.¹⁵ The licensor has ownership rights (a set of well-defined property rights) and according to Demsetz;

“a decision as to which actions are violative of someone’s rights implies a derivative decision about the protective measures socially sanctioned for defending against entry.”

Second-best substitutes (to the first best solution of free entry) such as the building of hotels and clubs, the transfer mechanism from rural to urban, the extinguishing of 2 for 1, *inter alia*, collectively support a misallocation of real resources in this market.

7.8 The solution to the problem raised by entry barriers is simple enough -- simply eliminate the barrier. In this market the licence price is combined with the property price¹⁶ into a bundled asset. This regulatory framework exacerbates the uneven distribution of licences as between rural and urban centres and creates perverse incentives to enter the market by second best substitutes (which manifests itself in the construction of numerous hotels and clubs in Dublin). Any proposed policy change away from this regulatory framework to one which facilitates entry must address this bundling as a structural parameter in the configuration of any new market structure. Legislation has created explicit property rights in the form of a licence to conduct business. Only legislation can remove this barrier to entry.

7.9 Both exogenous and endogenous sources of entry barriers are relevant in understanding the nature of entry into the Irish drinks market. The exogenous source of the entry barrier is the legal protection offered by legislation which introduces restricted market entry. Endogenous sources of entry barriers flow from this legal framework. Incumbents may deter entry by bidding up the price of a licence, thereby raising rivals’ costs, or by going to court to show that the new licence would affect trade in the area. Furthermore, the industry-wide preconditions or rules which govern entry will be shaped by the incumbents in order to make entry difficult.

7.10. Since incumbents protected by legal barriers to entry can make long-run or persistent profits without being more efficient than potential entrants, entry barriers not only restrict competition but also encourage the expenditure of real resources by incumbents to maintain the status quo. Such activity also has a social cost. This phenomenon was summarised by Sowell as follows:

¹⁴ Net entry is defined as the difference between the entrants’ combined new market share after subtracting the combined market share of any firms that exited during the period.

¹⁵ For example, McNutt (*The Economics of Public Choice*, Edward Elgar, 1996, p159) has argued that rent-seeking behaviour, lobbying, is a rights allocation mechanism for ensuring the transfer of rights and rents.

¹⁶ The unbundling of both property rights is crucial to determine the extent (or height) of the barrier to entry.

“Although ‘the public interest’ is a prominent rhetorical feature of occupational licensing laws and pronouncements, historically the impetus for such licensing comes almost invariably from the practitioners rather than the public, and it almost invariably reduces the quantity of new practitioners through various restrictive devices, and the net result is higher prices.”¹⁷

7.11 Activity which requires the expenditure of real resources designed to retain the status quo is defined in the economics literature as “rent-seeking”. Entry barriers are often associated with rent-seeking activity. Rent-seeking includes the behaviour of incumbent firms who continue spending and exerting effort in order to maintain their privileged position. Where rent-seeking is successful in establishing and maintaining an industry-wide rule, it can lead to a barrier to entry. Tirole considered both strategic costs and the administrative costs of rent-seeking¹⁸. The strategic costs include the costs of erecting barriers to entry. The administrative cost includes expenditure on lobbying. A market where the economic rents of incumbents are protected by legislation, such as the Irish retail drinks market, is a case in point.

7.12 An interesting dimension to the debate on the relevance of rent-seeking to competition policy analysis is the role played by lobbyists in maintaining a monopoly position and the extent to which the incumbents, through lengthy and complicated regulatory procedures, attempt to delay the entry of other players. The incumbent’s expenditure of resources to protect its acquired monopoly position and the real cost of the time and effort spent in lobbying politicians, are all factored into a measure of the social cost of rent-seeking.

7.13 The exigencies of the Irish retail drinks market have created a secondary market for rent-seeking activity. The rent-seekers are financed in their activity by the excess profits they earn due to the legal framework which restricts entry. The rent-seekers find it profit maximising to dissipate a portion of these rents to retain the status quo. In other words, the potential losers in any policy change in the licensing laws are prepared to expend real resources to lobby the Government. The amount of resources spent is wasteful and the rent-seeking activity decreases social welfare and results in allocative inefficiency.

7.14 Institutional barriers to entry¹⁹, of the type in evidence in the licensing laws, evoke an argument by Brock and Evans (1983) that incumbent (monopoly) interference in the regulatory process - an interference referred to as ‘regulatory-process predation’ - may be a pure waste of resources. Incumbents in the market, who have benefited from the legislative environment are in the unsatisfactory and untenable position of expending real resources accrued on lobbying activity. The Irish drinks market is characterised by such a social cost - existing incumbents seek to maintain entry barriers in order to deter entry. Here we see the interplay between exogenous and endogenous entry barriers outlined above.

¹⁷ Sowell (1980) *Knowledge and Decisions*, pg. 200

¹⁸ Tirole (1988) *Theory of Industrial Organisation*, MIT Press.

¹⁹ Benham (1972) ‘The Effects of Advertising on the Price of Eyeglasses’ *Journal of Law & Economics* vol. 15 pp. 388-400 - had earlier presented evidence to show that legislative restrictions on advertising reduced competitive pressures; this had the impact of raising prices and reducing consumer surplus. Advertising is necessary in order to reduce the market imperfections in information. Also Brock & Evans (1983) ‘Predation: A Critique of the Government’s Case in *US v AT&T*’ in Evans [Ed] *Breaking Up Bell*.

7.15 It may be proposed that as part of any regulatory reform to a pro-entry position, incumbents receive some compensation for their loss of the value of the licence as a tradable asset and other losses which they may suffer as a result of freer entry into the market. The establishment of such a compensation scheme is problematic²⁰. Losses incurred by incumbents associated with the policy change must be identified as true opportunity costs in order to avoid moral hazard, i.e. if potential losers know with certainty that they will receive compensation, they have an incentive to adjust their behaviour in order to increase the compensation due them.

7.16 However, the Authority believes any scheme of compensation to be unwarranted. A policy change will not deprive any incumbent of the right to conduct business. Therefore, rewards to incumbents will be adequately determined in the market place as is the case for other incumbents who are not protected by entry barriers - without the attendant social costs which necessarily follows from legal entry barriers. Compensation will not enhance consumer welfare. Compensation will only add an additional element to the social cost inherent in an antiquated system which a well funded lobby has successfully maintained intact to date.

²⁰ The failed 1925 initiative is historical proof of these difficulties.

Chapter 8

Conclusions And Recommendations

8.1 The liquor licensing laws are a formidable barrier to entry into the retail drinks market. A legal description of this entry barrier reveals it as both quantitative and qualitative. With the limited exceptions noted, new licences may not be issued. Entry is practical in most cases only by purchasing an existing licence and such licences are geographically constrained. In this way, market entry and exit are linked. In addition, as noted above, some incumbents may object to new entry on the grounds of proximity of the new entrant to existing businesses, potential detriment to existing businesses or the number of existing licensed premises in the area. Few businesses may legally object to new entry on these grounds.

8.2 Legal barriers to entry distort competition and the licensing laws are no exception. Entry is effectively blockaded for those who are unable to generate sufficient revenue to purchase a licence and entry is biased in favour of those able to sell alcohol most intensively. The geographic restrictions on entry can make it impossible for entrants to locate near incumbents. There are many industries (and the public house industry is one of them) in which entrants will find it optimal to locate beside the incumbents²¹ (minimum geographic differentiation) and will then attempt to have maximal differentiation along other characteristics important to consumers. All of the restrictions inherent in the system of licensing of pubs makes it impossible for the market to function efficiently and in the best interests of the consumer.

8.3 The Authority was presented with substantial empirical evidence of the distorting effects of the licensing laws on competition. This evidence was set out in Chapters 5 and 6 and includes:

- the persistence of a significant price differential (6-10%) for a range of alcoholic products (stout, spirits, lager, foreign lager) for on-sales between Dublin and non-Dublin areas controlling for differences in consumer expenditure patterns across regions;
- the non-existence of any significant price differential of alcoholic products for on-sales between urban and rural areas in jurisdictions without barriers to entry into the on-sales market (such as the United Kingdom);
- the non-existence of a stable price differential of alcoholic products for off-sales between Dublin and non-Dublin areas and the existence of cheaper prices for the same in Dublin;
- the non-existence of any significant price differential for fast food meals products between Dublin and non-Dublin areas;
- the significant increase in the population, especially active age population, in the Dublin region;
- the skew in the distribution of income toward the Dublin region and the positive impact that this has on the demand for alcohol;
- the non existence of such marked disparities in person per pub ratios, as between Dublin and the rest of the State, in the more liberal entry regime pre the 1902 Act;

²¹ This literature follows the work in Hotelling, H. 1929 Stability in Competition, *Economic Journal* 39: p 41-57.

- the significant price differential between the value of licences between Dublin and non-Dublin areas;
- greater investment in licensed premises in Dublin rather than in non-Dublin premises;
- fewer licensed premises in Dublin than in non-Dublin areas;
- higher turnover per premises in Dublin than in non-Dublin areas; and
- increasing margins of operations being achieved in licensed premises.

8.4 The combination of all these factors and the fact that they are all subject to a single interpretation makes for a compelling body of empirical evidence that the licensing laws significantly distort competition.

8.5 The effects of legal barriers to entry on competition are well known and have been exhaustively commented on in the economics literature. However, in one dimension, the licensing laws are different from other legal barriers to entry -- they have different effects from place to place. The combination of legal barriers characterised by quantitative restrictions on issue, restrictions on transfer and mobility along with geographically skewed shifts in demand have created severe anomalies in the distribution patterns of licences. A good indication of the anomaly created by the licensing laws and the variations in height of the entry barriers is the respective prices achieved for licences in the secondary market depending on location. Dublin licences routinely trade at a value upwards of five times and, in some circumstances, upwards of ten times that of their rural counterparts.

8.6 Dublin pubs are bigger and fewer than would be the case in the absence of the barriers to entry in the licensing laws. The rural market remains characterised by a proliferation of licences and pubs, many on the margins of economic viability. Entry is very costly in Dublin, less costly but still significant in rural areas. Exit barriers do not seem to be a factor in Dublin, yet they appear to be high in rural areas as the simple cessation of trading even of an economically unviable operation is costly (due to the tradable value of the licence) and the illiquid nature of the secondary market increases the cost of disposal of the licence. Thus, the same licensing laws produce two different results.

8.7 It is the very nature of the anomaly produced by the licensing laws which make it very difficult to find any coherent, socially justifiable reason supporting the retention of the present system. Some may argue that the availability of alcohol should be restricted and that the barriers to entry in the licensing laws are justified on these grounds alone. This argument can not justify the current system, for two reasons. First, the existing system allows for a continued proliferation of licences in many rural areas. Second, even in those areas where the number of licences is restricted there is a corresponding increase in the size of the existing establishments thereby effecting little if any decrease in the availability of drink, albeit at a higher price. The Authority did not hear any argument put forward in any of the 26 submissions or 19 oral hearings that it is socially desirable for more people to drink together in newly established communities (meaning communities established since 1902) or conversely that drinkers in other more historically settled areas either prefer or require a more atomised ambience.

8.8 A moral hazard entry argument was put forward in many submissions in support of the current system. It is argued by some that the present licensing system encourages the socially responsible sale of alcohol since offending licensees run the risk of having their

licence revoked and thereby losing a valuable property right. Therefore, according to this line of argument, the higher the value of the licence, the greater the incentive to engage in socially responsible conduct. The current system fails to address the moral hazard problem coherently due to the anomalies in its effects. Dublin licensees run the risk of a disproportionately higher loss for socially irresponsible conduct than their rural counterparts. Furthermore, the effectiveness of the loss of the property right as a deterrent for socially irresponsible conduct must be discounted against the probability that it will be used. Under the current system, licences are rarely revoked and the deterrent effect of revocation is therefore minimal.

Undoubtedly the moral hazard problem could be better addressed by a different system where sanction for misconduct was a more realistic possibility and other types of traditional sanctions were imposed with more certainty where appropriate, such as suspension of a licence or fines.

8.9 Moral hazard entry or “hit and run” entry is less likely to occur in an industry such as pubs where the good/service provided is an experience good. Being an experience good, people are unlikely to make repeat purchases in a pub that they previously found to be deficient in some manner. This means that publicans have an incentive to be particular about such characteristics as general cleanliness and public order without regard to the value of the licence. Hit and run entry is much more likely to occur in industries where impact of such behaviour is felt by the industry as a whole rather than by the individual firm themselves.

8.10 Any serious attempt to reform the licensing laws must address the fundamental problems outlined in this Report. Accordingly, the Authority recommends the reconstitution of the licensing laws with the following features:

- the repeal of the prohibition on the granting of new licences (as contained in Section 2 of the Licensing (Ireland) Act 1902);
- the repeal of any provisions protecting existing establishments from market entry (such as the “One Mile Rule” as contained in Section 20 of the Intoxicating Liquor Act 1962);
- the repeal of any provisions granting existing establishments the right to object to market entry based on the effect of such entry on competitors (such as the number of previously licensed premises in the neighbourhood or the detriment to businesses then carried on in the neighbourhood);
- the retention of only those legal barriers which relate to qualitative criteria directly relevant to the social dimension of the sale of alcohol such as:
 - the suitability of the applicant;
 - the suitability of the premises;
 - compliance with fire and safety and health regulations and with all applicable planning provisions.

8.11 The Authority fully anticipates that its recommendations will be met with strong objections, particularly from associations and other organisations representing incumbents in the industry. This is understandable. The licensing laws protect incumbents from competition and increase the value of licences held by incumbents. This in turn finances rent-seeking activity to maintain this same system. It is testimony to the power of the industry lobbying groups that much needed reform, of the type outlined immediately above, has been successfully stymied to date. Particular objections will be made to the recommendations of the Authority and these are dealt with below.

8.12 First, it is expected that licensees will object to the Authority's proposals on the grounds that they amount to a taking of private property and therefore violate Article 43 of the Constitution. The Authority recognises that such an issue can only be resolved by the courts. Nevertheless, we consider the objection to be wholly without merit. The Authority's proposals will not deprive any licensee of the right to earn a livelihood. No right to trade is extinguished. The Authority recognises that if its reforms are implemented, the value of some licences on transfer will decrease as new licences are issued and as entry becomes possible without the requirement of the purchase or extinguishment of an existing licence. However, the current value of these licences is an artificial creation, the result of a legal barrier to entry and operates to the detriment of society. Even if a property right in the transfer of licences is recognised, the Authority is unaware of any legal precedent which constitutionally requires that the government take action to maintain the value of such a right on transfer or continue to support the artificially created value of the property right even after its socially harmful effects have been demonstrated. Governments can not be under a duty to underwrite the value of an investment, making the State the guarantor on the expected return on a transaction which may have been made for speculative purposes. Property rights do not entitle the right holders to be immune from any future legislative reform or from the effects which result therefrom. In this regard, reference is made to Article 43.2.2 of the Constitution which expressly provides for property rights to be limited "with a view to reconciling their exercise with the exigencies of the common good." In the view of the Authority, the legal barriers to entry contained in the licensing laws are detrimental to the common good and the beneficiaries of any reform, consumers, are far more numerous than the beneficiaries of the current system, licencees.

8.13 It must also be noted that even though the licensing laws restrict competition, this was never its intended effect. As the court stated in *re Powers Supermarkets* (1988) IR 206:
"The object of the (Acts) was to safeguard the public interest by preventing a proliferation of licensed premises.....and not to shelter existing publicans from competition...To decide that a licence ought not be granted because the competition it would offer to existing licences would be economically disadvantageous to the holders of those licences is not a ground which is contemplated by the code."

Licencees are not entitled to rely on the continuation of the unintended effects of legislation.

8.14 Furthermore, it is likely that, coupled with the objection stated above, existing licensees may insist on the institution of a compensation scheme as part of any attempt to issue new licences. The Authority sees no merit in instituting a compensation scheme as a part of any reform of the licensing laws. Government compensation is not justified when a false market, long the product of Government protection, is finally partially deregulated. After reforms have been implemented along the lines the Authority recommends, existing licensees will be legally able to continue their trade and to find their rewards in the market, as any other business.

8.15 Second, some may argue that the Authority's proposals are too radical and that less severe changes can be implemented to reform the licensing laws. For example, one counter proposal which may be made is to maintain the general prohibition on the issue of new licences but to provide for the geographic mobility of licences. With this change, it may be

argued, licences will migrate from rural areas to Dublin, thereby eliminating the geographic anomalies of the current system. The Authority considers such an approach to be inadequate. Simply increasing the geographic mobility of licences, particularly rural licences, will, for the time being, reduce the height of the entry barrier in Dublin. However, a necessary side-effect of this reform will be to increase the value of rural licences. Therefore, the benefits of the reform in urban areas are only achieved at the cost of increasing the height of entry barriers in rural areas. A “reform” which simply transfers the perceived problem between geographic areas is no reform at all. Furthermore, in the medium to long run, this reform may produce its own anomalies as demand shifts in ways which are impossible to predict. Many of the harmful effects of the 1902 “reforms” have only been experienced in certain areas in the recent past. Any reform limited to increasing licence mobility without otherwise providing for changes in the number of licences will result in a market unlikely to have the flexibility required to meet the inevitable changing demands which will be placed on it in the future. Implicit in the view that there are enough licences and it is just their geographic distribution which is problematic is the notion that it is mainly the welfare of publicans which is of concern. This is clearly the legitimate concern of the various vintners’ associations but, in analysing the drinks market, the Authority must place the welfare of society at the heart of its analysis. In order to overcome the numerous distortions in the drinks industry (especially to optimally determine the number and geographic distribution of pubs, as well as their optimal sizes and the prices that they charge etc.) a more liberalised system will provide a more efficient outcome than the current mire of regulations.

8.16 Another counter-proposal which may be made is the imposition of price controls. Some may argue that the Report of the Authority itself, which highlights the price disparity between Dublin and other areas, justifies such an intervention. The Authority considers this to be the wrong conclusion to draw from the econometric evidence assembled. Price controls will do nothing to address the structural rigidities in the Irish retail drinks market due to the licensing laws. These rigidities support the high entry barriers into certain geographic markets which in turn lead to the regional price variations. The imposition of price controls will simply add an additional layer of rigidity to the market and make it more difficult for the market to adjust to changes in demand. Price controls may make desirable new investment in premises economically unviable and otherwise retard innovations in product and service differentiation which would enhance consumer welfare.

8.17 Finally, it is anticipated that certain industry groups may object to the conclusions drawn by the Authority from the econometric evidence assembled. It will be argued that prices of alcohol are higher in Dublin than elsewhere, simply because costs are higher. Therefore, there is no justification for any change in the current system. The Authority rejects this view. Licences in Dublin trade at upwards of five and in some cases upwards of ten times the value of their rural counterparts. Licensed premises in Dublin trade at multiples of earnings in excess of their rural counterparts. The sales price of licences and premises reflects the higher level of profits made in Dublin and indicates that higher costs are not the only factor contributing to price. Furthermore, the econometric evidence assembled for off-licences demonstrate the opposite phenomenon, namely, that prices for certain alcoholic beverages are lower in Dublin. Presumably, the costs of Dublin off-licences are reflective of at least some of the costs of on-licences, such as real estate and staff. Finally, a survey of the economics literature of the UK market indicates that, in the absence of restrictions on entry, prices in the rural and urban markets converge, a phenomenon not in evidence in the Irish drinks market. Prices in the rural and urban markets converge

downwards to the rural price level and the advent of competition in the pro-entry market will inevitably maximise consumer surplus as prices converge to a more socially efficient level.

8.18 In terms of addressing the problems which are clearly set out above (and are acknowledged by almost all the third party submissions), just tinkering with the current restricted entry regime would essentially be an attempt to improve upon a second best solution when a first best solution is available. A liberalised entry regime, which will spread gains throughout society, should be put in place, even in the face of resistance to our recommendations from a small, well-organised portion of society who benefit from the current system.

23 September 1998

William Prasifka
Member

Patrick McNutt
Chairman

Isolde Goggin
Member

1. INTRODUCTION

1.1 INTRODUCTION

This study was commissioned in April 1997 by the Competition Authority, as part of its general study into the licensed drinks industry and the effects of licensing restrictions on alcohol prices, to provide an econometric insight into the demand for alcohol products at the micro level, and the trends in alcohol prices by area within Ireland. This study is in two main areas. Firstly the study aims to explore patterns and issues of interest relating to the expenditure of households on drink products both in public houses and other licensed premises (referred to as ‘on-sales’ in this study) and the expenditure by households on drink products from off-licences and other outlets (referred to as ‘off-sales’). Secondly the use of price information disaggregated into regions can explore how movements in prices may or may not be uniform.

The microeconomic data used are the CSO Anonymised 1987 and 1994 Household Budget Survey datasets, national surveys conducted every seven years, kindly supplied by the Central Statistics Office (CSO). The data made available are anonymised and aggregated into two regions; Dublin and Non-Dublin. The alcohol price data are quarterly (February, May, August, November) from 1983-1997 providing a rich source for the analysis. Again this information is supplied courtesy of the CSO.

1.2 ACKNOWLEDGEMENTS AND DISCLAIMER

We are grateful to the CSO for supplying us with the anonymised 1987 and 1994 Household Budget Survey datasets and the CPI alcohol price data. Neither the CSO nor the Department of Economics University College Dublin are responsible for the contents of this report.

2. MODELS OF THE DEMAND FOR ALCOHOL & LICENSES

2.1 LICENSING AND THE DEMAND FOR ALCOHOL

While there has been some evidence presented for Ireland as to the determinants of the demand for alcohol there is no formal analysis of the economics of licensing in the drinks industry in this country. Some debate has developed in the economics literature on the effect of licensing on the demand for alcohol and specifically on the causal relationship between the two elements. Taking the UK experiences as being our closest parallel, studies by McGuinness (1983) show that the number of licensed premises does influence the sales of alcohol. Any estimation of the demand for the product must therefore control for the number of licences in the locality in the estimation of a demand function²². The influence stems from two basic mechanisms in the McGuinness framework:

- There is a ‘convenience issue’ whereby more licenses means more premises in the locality in terms of both on and off sales. Availability of licenses provide the consumer with choices and price competition can follow.
- The presence of a licensed premises acts in itself as an advertisement for the products

²² McGuinness, T. (1983). “The Demand for Beer, Wine and Spirits in the UK.” In *Economics and Alcohol*. (Eds.) M.Grant, M.Plant and A.Williams. Croom Helm:London.

on sale in the premises. We observe therefore that when licenses are granted the economic effect of advertising can be seen in action. This typically amounts to observing relatively dynamic demand elasticities (the sensitivity of demand to changes in product price or household income) for established products as the availability of alternative sources increases. This would also be the case with new products but some settlement of demand patterns takes place over time in these instances.

However given the gestation period between application for and the actual granting of licenses McGuinness suggests the causality runs from licenses to demand *and not* from demand to licenses – the number of licensed premises influences the demand for the drink products but the increase in demand in itself does not cause an increase in application for licenses given the fixed costs in terms of time and effort in the application procedures. This lack of any two-way causality was disputed by Duffy who suggested that current sales do influence the economic arguments for license applications by way of a more convincing econometric modelling procedure.²³ Both studies, and the synthesis of the competing arguments presented in Godfrey²⁴, utilise rudimentary time series demand models given the fluctuating nature of the total number of licensed premises, with demand typically measured in expenditure and expressed as a function of own and cross prices, income and aggregate drinks industry advertising expenditure. The evidence where conclusive suggests that in the demand for drink products there are significant licensing effects with two-way causality, i.e. the growth in demand for drink products leads to an increase in the number of licenses, and the increase in licenses has a direct effect also on sales. With the impact of licenses controlled for, price movements appear dampened and estimates of the price elasticity are rarely significant.

In the context of the debate in Ireland a number of differences must be noted. For example the level of disaggregated time series data is not available in Ireland that would allow regional price differences to filter through in terms of their effects on demand in any estimation procedure. However more important for this study is the fact that the number of pub licenses in the Dublin area is finite and not subject to any time series variation (although the number of clubs, hotels and restaurants selling alcohol has risen, so some substitutes are becoming available). If correct however the UK results would support the notion that in areas where the number of licensed premises is restricted the growth in demand for beer products would lead potentially to price increases given the number of competing suppliers is fixed in size. Recall that in the models *demand* increases in the face of increasing availability of licensed premises. In the context of basic economic principles demand increases in response to price changes, suggesting by implication that the impact of licenses on demand feeds through via lower prices at the bar counter.

This potential problem becomes compounded if we take the scenario that increases in the population catchment that a licensed premises serves might manifest itself in an uncompetitive scenario of demand-led prices with no automatic mechanism for alternative providers to emerge via increased licensing. Conversely where demand (from demographic or other influences) is not increasing the fixed number of licenses should have less of an impact. A final point worth noting by implication is that the value of the license clearly must reflect the goodwill that is generated by virtue of their scarcity in the face of rising demand for the products they provide.

²³ Duffy, M. (1983). “The Demand for Alcoholic Drink in the UK.” *Applied Economics*, Volume 15, pp.125-140.

²⁴ Godfrey, C. (1988). “Licensing and the Demand for Alcohol.” *Applied Economics*, Volume 20, pp.1541-1588.

Thus summarising the existing literature on licensing, mainly on the basis of econometric studies of the UK market, we find

- Licenses and demand appear to share a two-way causal relationship. Increased demand leads to an increase in applications for licences, whereas the increase in the number of licensed premises positively effects the demand for the products.
- When the number of licenses is variable and not restricted the competitive pressures are such that increases in demand in particular areas do not lead to much upward pressure on prices in that area.
- No significant price differentials persist across the rural/urban geographic split as the influence of additional demand will not result in economic rents being captured by existing license holders and will instead lead to an additional competitor moving into the immediate market. This process, on the basis of UK results, will not be area specific. Moreover on the basis of relative free entry and exit to this market any price differential will be eliminated either by an automatic process of arbitrage from one region to another or the simple change of the overall total number of licenses.

3. DATA ANALYSIS

3.1 MICROECONOMIC DATA – HBS 1987 & 1994

3.1.1 Introduction

The Household Budget Survey for 1987 was conducted between February 1987 and March 1988, across a national sampling frame, with the corresponding 1994 survey completed in July 1995. Published documents from the CSO describe and tabulate in detail the main aspects of the HBS used in this study, including the variables of interest in this study.

The HBS provides us with two main aggregates for measuring drink expenditure. ‘Off Sales’ are defined in the data drink products bought and consumed outside of the licensed premises – note that we cannot distinguish between purchases in off-licenses and pub ‘take outs’. Average off-sales in 1987 represented a weekly expenditure of £1.49 per household although the range of values is considerable, from a response of zero to a maximum of about £170. By 1994 this average had risen to £2.98 (with a spread from zero to over £250). ‘On-sales’ are drinks bought and consumed in public houses and show the same general pattern with average sales of £8.34 per week in 1987. This figure rose significantly between 1987 and 1994 to £11.75. However this might suggest two potential problems worth discussing at this point:

- Firstly outlying values at the top of the distribution may distort the overall outcome. Large outliers at the top of the distribution might occur where the particular household misreports or was subject to a particularly large expenditure in the two week period of the expenditure diary (such as the diary coinciding with some celebration). We model reported expenditures and control specifically for seasonal patterns in consumption depending on the date of sampling by including the month of sampling as a direct variable for analysis which smooths out any trends across the calendar year.
- Secondly is the serious problem of zero responses. These can be interpreted in a number of ways. Reported values of zero can represent either zero consumption of drink products in the diary period or non-consumption of drink at any time. Clearly some consideration of the

difference between these two categories needs to be addressed - the modelling framework in Section 5 will address some of these issues.

Under-reporting and non-reporting of alcohol expenditure are a common problem with surveys of this nature. The CSO have noted for some time how ‘grossing up’ the reported expenditure on alcohol by the sample in the HBS to represent an equivalent figure for the entire population would suggest that the HBS sample under-reports consumption of drink products by some 50% when compared to expenditure figures for the population derived from Revenue Commissioners data on tax take from drink products. This is a problem shared with other categories of consumption that tend to be sensitive, such as gambling expenditure (most recently noted in data on UK National Lottery sales in the UK equivalent to the HBS, the Family Expenditure Survey) and cigarette consumption. The reader should always bear in mind that all the HBS alcohol expenditure data in this study refer to reported as opposed to true expenditure by households and similarly all discussion of income unless explicitly stated will refer to reported income, which is known to be under-reported. However reported expenditure patterns have changed quite dramatically between the 1987 and 1994 surveys suggesting that this under-reporting may not be quite as serious in the more recent data. In any case we believe that the changes in reported alcohol expenditure patterns reflect changes in the true expenditure patterns.

In Appendix A of the survey we compare the percentage of households reporting expenditure on alcohol across three categories of product – we see that the numbers reporting expenditure on off-sale products have doubled in some instances.

3.1.2 HBS 1987 & 1994 – Summary Statistics

Table 3.1 illustrates the outcomes based on a cross-tabulation of expenditure on alcohol in on-sales against disposable income categories in the 1987 data. The findings here suggest a strong correlation between the income level and the level of expenditure on alcohol. Table 3.2 shows the expenditure patterns by region – again the findings do suggest an increased level of expenditure in Dublin and large urban areas compared to the rural category. Both of these results are strongly supported in the 1994 survey. In many respects the 1994 data provides stronger evidence of skewness in the data on reported expenditure in favour of the Dublin area with a large reduction in the numbers reporting no expenditure and a doubling of the numbers with reported expenditure between £10 and £20 and with reported expenditure in excess of £20 per week.

Table 3.1: Reported Expenditure (On-Sales) by Reported Income Category – Frequencies

	Reported Disposable Income (£ per week)										
	0 – 50	50-100	100-150	150-200	200-250	250-300	300-400	400-500	500-600	600-700	700+
Reported Alcohol Expenditure (£ per week)											
<i>0 pw</i>	68.8	63.0	41.5	31.6	26.8	20.3	20.9	15.8	12.6	21.0	27.7
<i>0-10 pw</i>	23.1	26.6	38.7	38.8	38.5	38.2	35.9	30.7	33.6	27.4	26.5
<i>10-20 pw</i>	5.6	7.4	13.0	17.5	19.4	22.1	19.7	22.1	15.4	17.7	22.9
<i>20-30 pw</i>	1.6	1.8	4.8	7.1	8.7	10.4	10.9	12.0	10.5	3.2	8.4
<i>30+ pw</i>	0.9	1.1	2.0	5.1	6.5	8.9	12.5	19.5	28.0	30.6	14.5

Source: Author's calculations based on unweighted data from the CSO anonymised 1987 HBS.

Table 3.2: Alcohol Expenditure (On-Sales) by Location Category – Frequencies

	Region					
	Rural	Dublin	Town (>10000)	Town (1500-10000)	Town (<1500)	All
Reported Alcohol Expenditure (£ per week)						
<i>0 pw</i>	41.6	32.7	34.6	39.8	42.0	37.8
<i>0-10 pw</i>	35.9	33.7	35.0	30.7	34.4	34.4
<i>10-20 pw</i>	13.8	16.7	16.2	16.2	11.5	15.1
<i>20-30 pw</i>	5.0	8.2	6.4	7.4	6.7	6.5
<i>30+ pw</i>	3.8	8.8	7.9	5.8	5.4	6.2

Source: Authors' calculations based on unweighted data from the CSO anonymised 1987 HBS.

Whilst informative we will refrain from making too many inferences regarding the likely correlations between expenditure and different elements of the HBS data for the moment. In analysing these tabulations recall that each outcome is only controlling for the two issues in question, i.e. the pure relationship between regional location and reported expenditure without taking into account the differences in any other outcome such as household size, age composition. In the econometrics jargon we are not *controlling* for any other factors. This of course implies that the increased expenditure by region might represent the fact that average

incomes are higher in Dublin rather than being attributable to a pure regional effect. This problem can be dealt with neatly by way of econometric modelling in a multi-variable framework. In addition some of the ‘cells’, i.e each pair of expenditure/control variable outcomes, would have very small sample sizes and so would be influenced greatly by any outliers within the cell. This modelling is the objective of the next section.

3.2 TIME SERIES DATA ON PRICES BY REGION

Courtesy of the CSO we have also collected price information on a range of products, both in terms of On and Off sales, for the Dublin area compared to the rest of the country. The price data are quarterly observations over the period February 1983-May 1997.

Figure 1 Pint of Stout (Prices)

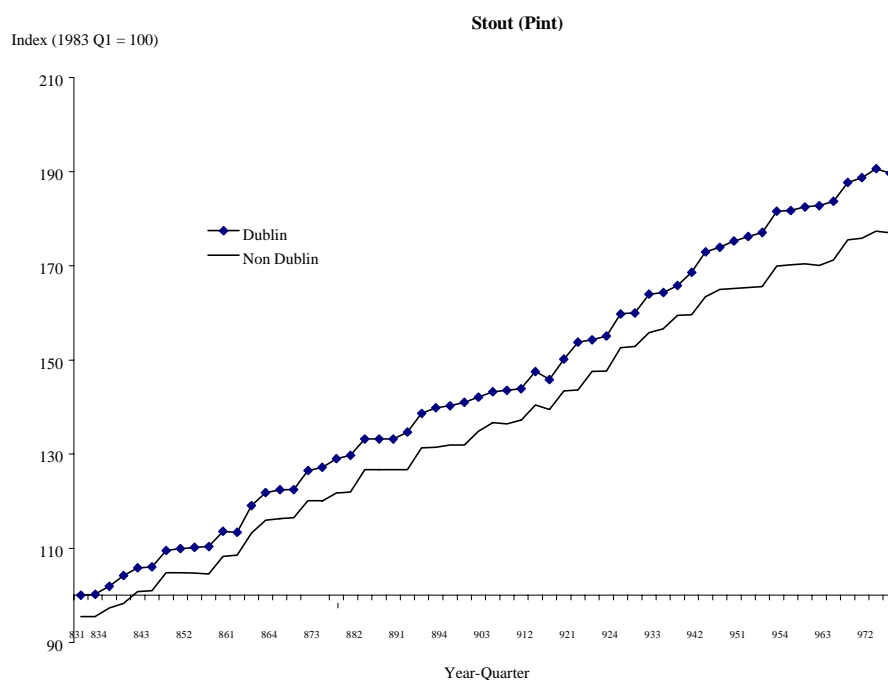
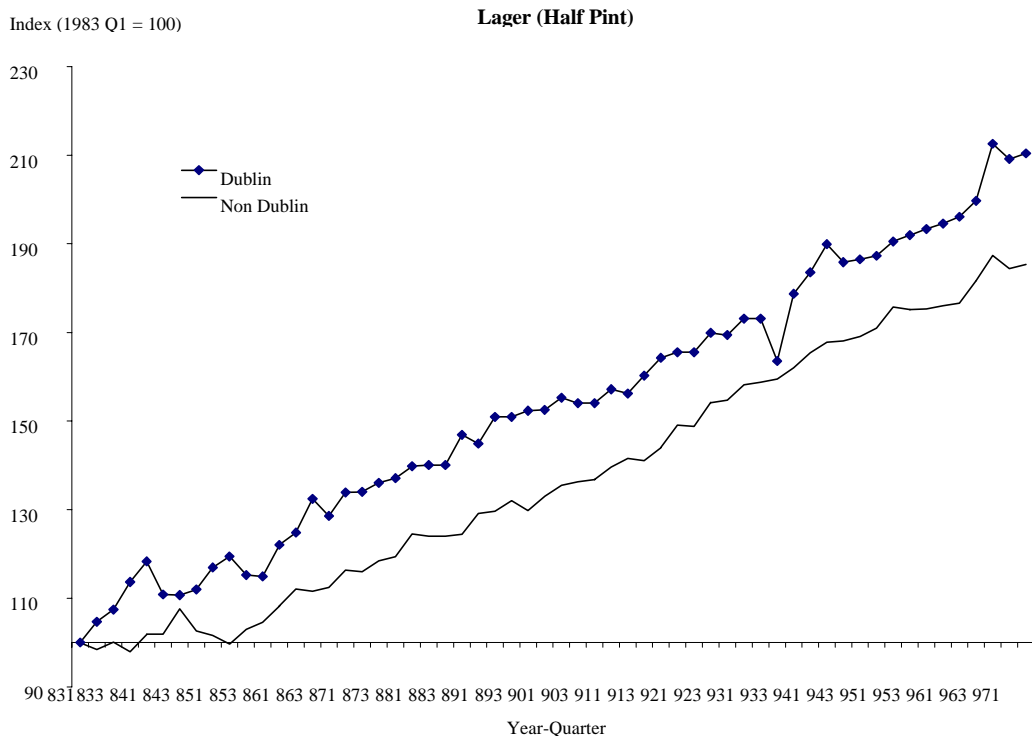
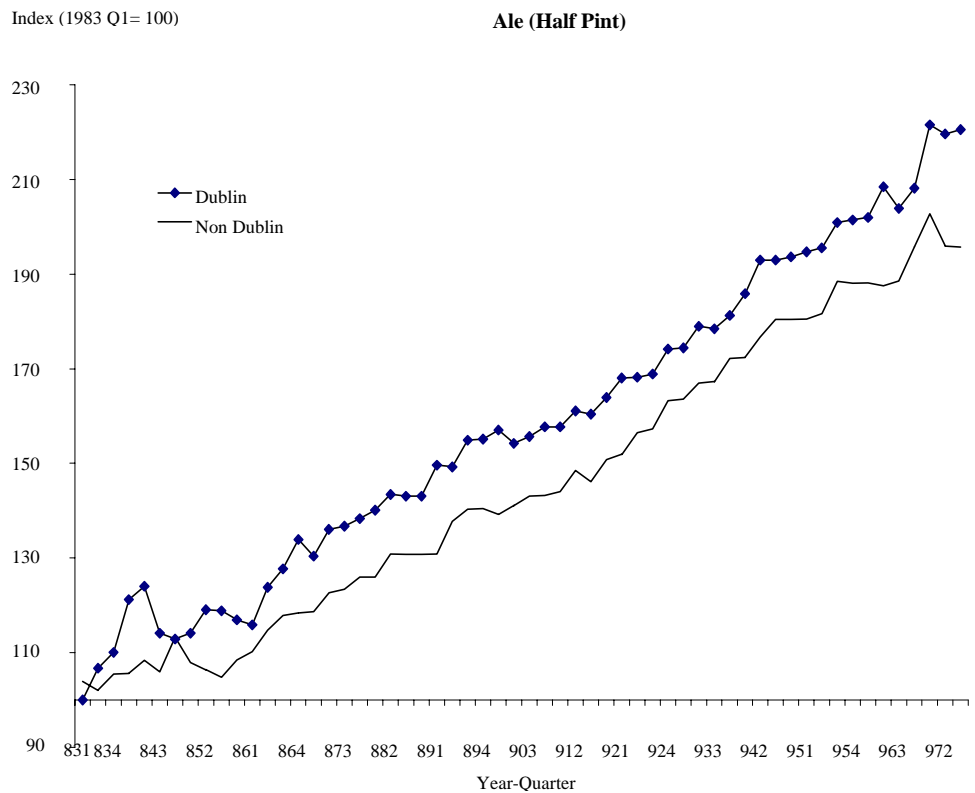


Figure 1 reports the price series for one of the more interesting products and certainly the one with the highest public profile – the price of a pint of stout. The price data is aggregated into the two regions of Dublin and Non-Dublin and the base quarter for the price index is 1993 quarter 1 (=100). In Figure 1 we plot the index over the full 1983-1997 sample. Throughout the entire period there is a persistent price gap between the series. There is a clear lack of convergence in stout prices and some evidence if anything of an acceleration in Dublin prices in the later period where the index for Dublin appears to diverge slightly from the alternative series. Figure 2 plots a number of other bar products – ale and lager (both ½ pints). The overall pattern is the same with the same slight acceleration apparent in these products.

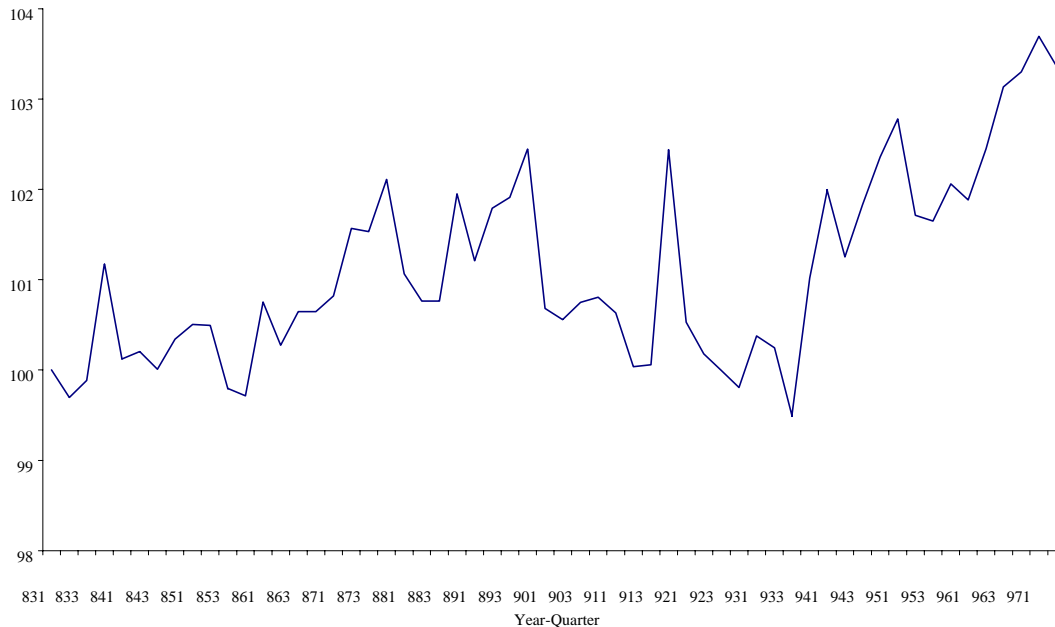
Figure 2 1/2 Pint of Ale & Lager



Finally in Figure 3 we plot the ratio of the rates of change in Dublin prices for stout to the Non-Dublin rate of change. Movements in this index upwards above 100 reflect an increase in the rate of change in Dublin prices relative to elsewhere, taking the 1983 Quarter 1 prices as the starting point. Movements downwards reflect a lowering of the rate of change in

Dublin prices. There is a degree of fluctuation in the index in the first half of the sample period but what is most apparent from this chart is the marked increase in the rate of change in Dublin prices relative to the other regions since 1993. The index rises steadily after this point unlike the more random nature to the series prior to this date.

Figure 3 Relative Dublin/Non-Dublin Rate of Change in Prices – Index 1983=100



While in later sections we analyse this data more formally this does paint an interesting scenario in the context of the earlier reporting of the HBS findings and the findings of the UK studies. We know from census data and other sources that the Dublin region has grown over the periods analysed here and that the expenditure on alcohol products is higher in this area suggesting the nature of the market could be highly competitive with strong demand patterns. If the UK studies are any gauge, the outcome would be more demand for licenses and an increase in the intensity of price competition. What actually appears to be happening in the Irish case is a large and significant gap persisting in the prices in Dublin relative to the other regions.

An alternative perspective might be to ask why prices elsewhere don't rise to track the Dublin prices? The possibly less favourable or even adverse demographics in these regions might suggest that existing licensees may be finding the market more competitive, in part due to new entry to the market (increased supply) but due more so to a market shrinkage (falling demand with constant supply). Basic economics tells us that a fixed supply of licenses is consistent with a lack of price pressure in a non-growing market and an increased degree of price pressure in a market undergoing some demand growth.

Before leaving this issue one, albeit non-rigorous, test of this scenario would be to consider the off-sales situation. The entry of the supermarket chains and other multiples has increased competition generally for off-sales, perhaps most obviously in the beer and wines sales segment. This increase in competition will tend to track the areas of high population (or high growth in population) where the potential supply might include one or two supermarkets,

possible sales from other smaller grocery chains, traditional off-licenses and public house off-sales. Consider therefore the scenario represented in Figure 4. Unlike the picture for the on-sale prices of stout here we see quite a different picture. Several points emerge – firstly more volatility is exhibited in both off-sales series; secondly, the growth in the price index is far more muted compared to on-sales, and thirdly the price differential is now generally in favour of the Dublin region - Dublin prices are cheaper! Clearly we have quite a different scenario here – but one consistent with the earlier results. The competitive forces in the Dublin area do exactly what we might expect them to do and force prices lower than in the low-volume demand areas outside Dublin. Figure 5 reports the same basic pattern for other products.

Figure 4 Take-Home Stout (6 x 0.5 pint Prices)

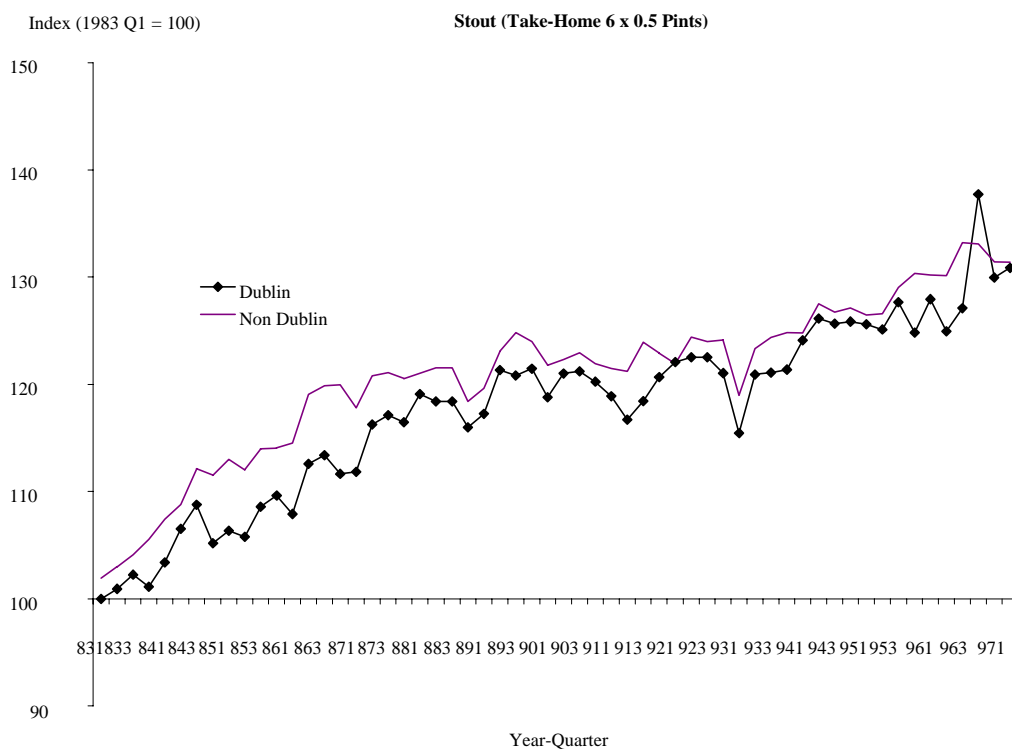


Figure 5 Take-Home Lager & Ale (6 x 0.5 pint Prices), Bottle of Whiskey

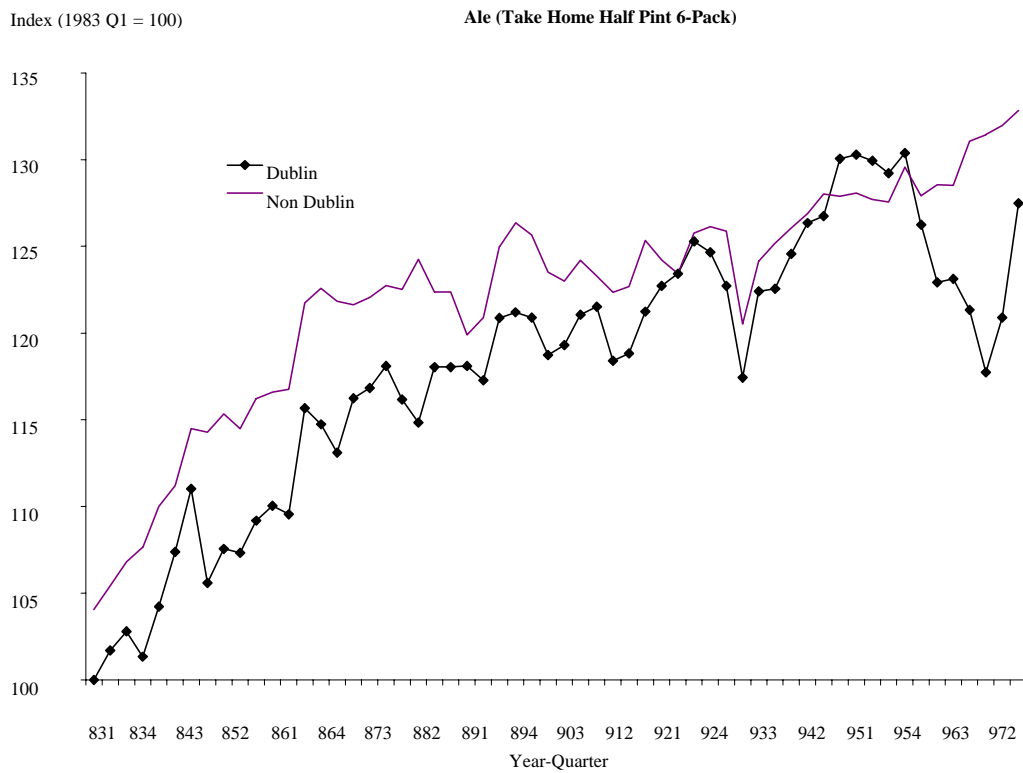
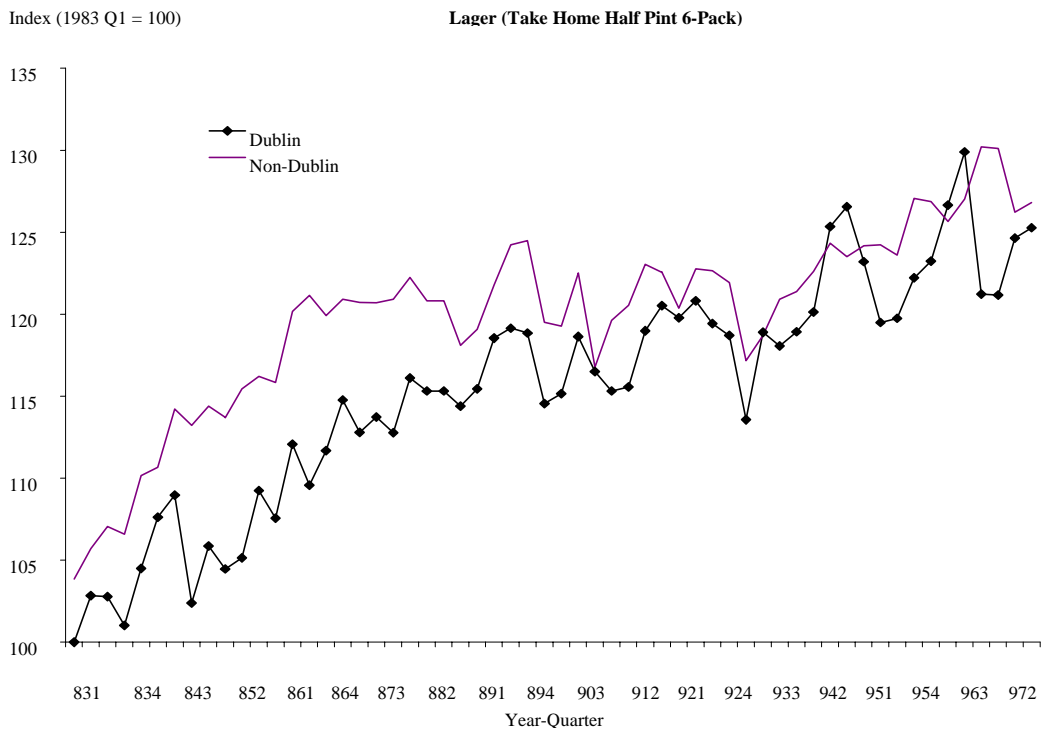
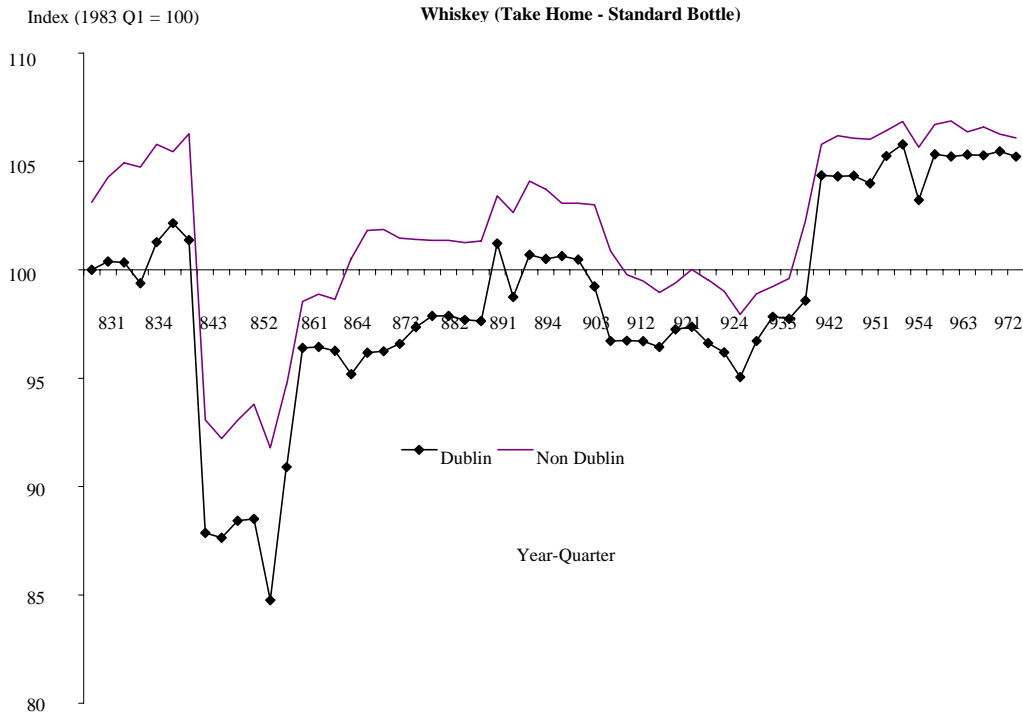


Figure 5 (Cont.) Take-Home Lager & Ale (6 x 0.5 pint Prices), Bottle of Whiskey





Given the UK findings in section 2 there would appear to be clear spatial dimensions to the licensing problem. The argument that increases in the number of licenses in the Dublin area, where demand is increasing, would have large negative effect on the revenue of the existing license holders is exaggerated. The existing spatial pattern of licenses poorly matches the spatial pattern of the population. This is not the case in the UK and hence we can account for the key finding in the UK literature – increased licenses are matched by increased demand due to the spatial elements being matched.

4. ECONOMETRIC MODELLING OF DATA

4.1 ECONOMETRIC APPROACH FOR HBS

In this econometric analysis we are using the HBS data for the first time at this level of disaggregation, presenting a unique picture of the rich range of influences on the demand for alcohol. We try therefore to take account of the specific factors that influence the reported expenditure level. The issues raised in discussion of the tabulations in section 3 prompt a number of important methodological issues which need to be addressed econometrically. The modelling framework we will adopt deals with many of these issues directly. The procedures adopted are as follows:

1. Estimate a probability model to consider the influences of various variables on the probability of a positive response for reported drink expenditure (non-zero responses).
2. Using the sample of non-zero respondents we estimate a demand model by expressing reported expenditure on drink products as a function of a number of characteristics including reported income and location variables. This second stage also includes a ‘correction’ for the non-response issue so that the statistical outcomes are no longer

affected by this issue.

This procedure, referred to as a Tobit model (or, in a more general variant, a Double Hurdle model) eliminates the main problems of the tabulation results. Firstly we are now explicitly dealing with the zero expenditure issue by way of the modelling procedure. Secondly we are expressing expenditure as a function of a number of explanatory variables simultaneously. In the first stage of this procedure (estimated by maximum likelihood Probit) the dependent variable takes the value of zero if the expenditure recorded is zero, and one otherwise – estimates therefore tell of the significance of the explanatory variables and the direction of the relationship between the dependent and explanatory variables. Qualitative variables are interpreted *viz a viz* an omitted or reference category - so for example we ‘omit’ residence in a rural area so we can interpret the residence variables as positive or negative ‘impacts’ on the probability of a non-zero consumption compared to rural residents. The reference household in our results is a rural household sampled in January 1987. Positive signs tell of variables that make a non-zero response more likely, negative signs show a zero-response as more likely.

4.1.1 Estimation Results

This first stage is estimated using a sample of 7600 households from the 1987 HBS (a small number of households were omitted from the sample because of missing data or zero reported incomes). Part of its role is to ‘select’ the sample of non-zero respondents in such a manner that the possible non-random nature of this sub-population will not violate the statistical assumptions required for the demand analysis.²⁵ The second stage therefore takes the remaining 4740 or so households (1640 in the case of off-sales) that have non-zero levels of expenditure on drink products and estimates via ordinary least squares or standard regression techniques the expenditure function corrected for the possible non-randomness of the sample used by inclusion of an explanatory variable generated statistically to account for the effect of sample selection.

Table 4.1 shows the estimated parameters for ‘on-sales’ from the first stage of the Double-Hurdle procedure in column (A) whereby we estimate a probability model by maximum likelihood procedures.²⁶ The first set of variables control for the month in which the HBS sample was interviewed, and show no statistical significance. The region of residence variables that show statistical influence are Dublin and Large Town residence, both with strong positive signs suggesting that the probability of non-zero reported expenditures on drink products are far higher in these areas. Mid and small town residents show no statistical differences compared to the rural residents.

²⁵ More urban households report non-zero alcohol expenditures which in part reflects the fact that the urban population is younger and there will tend to be a lower incidence of abstention in these areas.

²⁶ Throughout this procedure test statistics are computed telling us the importance of modelling this ‘Tobit/Hurdle’ specification over the alternative full sample estimation. Throughout the results discussed in Table 4.1 we find significant differences in the outcomes from this approach over the full sample estimates. Test statistics validate the choice of the Tobit specification.

Table 4.1: Modelling Expenditure on Drink Products

	(A)	<i>On Sales</i>	(B)	<i>On Sales</i>	(C)	<i>Off Sales</i>	(D)	<i>Off Sales</i>
	Estimate	Standard Error	Estimate	Standard Error	Estimate	Standard Error	Estimate	Standard Error
CONSTANT	-2.72569	0.425949	-0.62622	0.684282	-3.66673	0.45874	-2.35373	0.948024
<i>Month of Sample</i>								
87FEB	-0.46211	0.414181	0.240713	0.273879	-0.28411	0.444917	-0.17285	0.626388
87MAR	-0.30482	0.405395	0.122392	0.252932	-0.43345	0.434572	-0.30614	0.61858
87APR	-0.41946	0.40544	0.150227	0.256324	-0.35813	0.435215	-0.21779	0.617198
87MAY	-0.27305	0.40614	0.140775	0.252552	-0.40786	0.43544	-0.25312	0.6217
87JUN	-0.32503	0.405622	0.163461	0.253453	-0.4415	0.435076	-0.2111	0.619154
87JUL	-0.32908	0.406176	0.256949	0.25405	-0.36932	0.435646	-0.14004	0.620055
87AUG	-0.23229	0.407239	0.292906	0.254657	-0.35489	0.436712	-0.13167	0.621724
87SEP	-0.34529	0.405875	0.202643	0.254472	-0.52133	0.435785	-0.1984	0.621984
87OCT	-0.42023	0.40564	0.158903	0.256702	-0.38336	0.435392	-0.32027	0.618399
87NOV	-0.38016	0.405654	0.110078	0.254484	-0.18185	0.43466	-0.10963	0.613396
87DEC	-0.20966	0.406395	0.217429	0.251718	0.462439	0.43462	0.837861	0.613597
88JAN	-0.40746	0.408274	0.10509	0.260553	-0.37185	0.437452	-0.19244	0.62404
88FEB	-0.41441	0.408043	-0.11468	0.259262	-0.41033	0.437191	-0.17171	0.623319
88MAR	-0.41351	0.410311	-0.15725	0.262456	-0.30138	0.439339	0.143129	0.620595
<i>Region</i>								
DUBLIN	0.257231	0.040652	0.268857	0.050856	0.413144	0.043815	0.166269	0.092224
LARGE TOWN	0.224116	0.046386	0.274106	0.053585	0.171796	0.051087	0.031623	0.087735
MID TOWN	0.061407	0.052016	0.23418	0.053296	0.061639	0.058054	-0.14287	0.087564
SMALL TOWN	0.060541	0.065749	0.149375	0.068309	-0.02733	0.083441	-0.19209	0.120528
<i>Family and Income</i>								
NO. ADULTS	0.501363	0.064897	0.17325	0.091647	-0.11756	0.060473	-0.07839	0.093585
NO. ADULTS ²	-0.03915	0.010715	0.000363	0.000983	0.000185	0.000870	-0.05781	0.127390
NO. CHILDREN	-0.05241	0.026609	-0.11301	0.02381	-0.04731	0.03455	-0.13281	0.055379
NO. CHILDREN ²	0.00029	0.000645	0.000727	0.000407	-0.01315	0.000746	0.013315	0.012667
NO. CHILDREN 0-4	0.087274	0.027088	0.072559	0.031599	0.03652	0.032741	-0.09835	0.047686
LOG DISP. INCOME	0.481475	0.028504	0.358432	0.077041	0.652301	0.031559	0.62337	0.10869
N	7622		4745		7622		1640	

Not surprisingly the number of adults in the household also has a strong impact on increasing the probability of non-zero responses but the presence of children has no significant impact. The strongest influence in this side of the modelling procedure stems from the reported disposable income measure – increased levels of reported disposable income are strongly related to increases in the probability of non-zero outcomes.

Column (B) shows the corrected expenditure function for the non-zero outcomes. We can think therefore of this stage as representing the expenditure on drink products assuming that some expenditure has taken place. Here again the largest influences are from the

Dublin/Large Town/Mid-Size Town variables, all of which show a large increased expenditure over the omitted rural category. As a percentage of the mean expenditure on On-Sales we find that urban residents have an increased expenditure of approximately 15% over the rural grouping. While the number of children lowered the probability of non-zero responses we find that children also lower the average expenditure for those that have consumed. Finally the reported disposable income figures suggests an income elasticity of approximately 0.35. This can be interpreted as saying that if reported income increases by 10% reported expenditure on on-sales increases by 3-4%.

The comparable results for off-sales are presented in columns (C) and (D) of Table 4.1. Again the main influences on both non-zero outcomes and the expenditure on 'off-sales' are the Dublin/Urban effect and the income effect. Estimates of the income elasticity for off-sales in column (D) suggest that a 10% increase in reported income would lead to a 6/7% increase in the reported expenditure on off-sales. Off-sales show much more responsiveness to income effects than the on-sales figures would suggest. This would typically be the case with non-essentials and luxury goods' although this computed elasticity is not large enough to classify 'off-sales' as a luxury in the economic sense.

4.2 ECONOMETRIC APPROACH FOR TIME SERIES DATA

Our first transformation of the time series price information involved aggregating the series into two distinct datapoints – one consistent series for Dublin prices and a second series which tracks prices in the rest of the country. In forming the outside Dublin price data we must first avoid giving undue importance to prices in areas where the demand for the product would be very small. It would be incorrect to give equal importance to, say, the price of wine in Dublin and the price of wine in a small provincial town in terms of calculating an overall price series. Any simple averaging procedure across the board would not take this into account so the straight average of all four outside Dublin prices would be potentially misleading. To rectify this we weight each price point using approximate expenditure share for the product in the geographical region so the price series is computed as the following summation across the four non-Dublin regions,

$$\sum_{region(r)=1}^{region(r)=4} P_{ir} q_{ir}$$

where p_{ir} is the reported price of drink product i in region r and q_{ir} is the demand share for product i in region r . It is important to note that the results from this procedure are not very sensitive to the weights used. This series is used in all our regression analyses. One should be a little cautious in comparing some of the price data over time and/or across regions since one is not comparing the prices of identical products. For example there is no such product as a standard bottle of wine. Overall however we believe this problem to be slight and that the majority of the prices are comparable across dimensions of the data.

Table 4.2: Dublin vs Rest of Ireland – Percentage Price Premium or Discount (-)

Product	Unit		83:1 – 86:3	86:4 – 90:3	90:4 – 93:3	93:4 – 97:2
Stout -	6 -Pack	Take Home	-5.75	-3.10	-2.73	-2.65
Beer -	6 –Pack	Take Home	-6.65	-4.79	-2.46	-2.02
Lager -	6 -Pack	Take Home	-7.72	-5.19	-3.03	-2.13
Stout -	Pint	On Sales	5.62	6.38	5.54	7.12
Beer -	½ Pint	On Sales	8.50	12.35	9.25	8.39
Lager -	½ Pint	On Sales	12.13	16.33	12.52	11.14
Whiskey	Bottle	Take Home	-5.66	-4.21	-4.02	-2.32
Brandy	Bottle	Take Home	-5.59	-4.41	-3.59	-1.31
Whiskey	Bar	On Sales	6.52	10.41	7.34	8.14
Gin & Tonic	Lounge	On Sales	9.48	9.85	8.88	8.35
Vodka & Mix	Lounge	On Sales	8.77	9.72	6.83	8.23
Sherry	Bottle	Take Home	-4.97	-1.73	-0.98	-0.59
Wine	Bottle (ltr).	Take Home	-4.01	-11.72	-6.84	-5.55
Foreign Lager	6 – Pack	Take Home	N/A	-7.55	-6.91	0.08
Foreign Beer	6 – Pack (can)	Take Home	N/A	-4.67	-3.92	-3.98
Foreign Lager	Pint	On Sales	N/A	10.95	9.69	10.35
Foreign Beer	Pint	On Sales	N/A	7.12	7.63	8.96

Source: Authors' calculations based on disaggregated CPI alcohol price data supplied by CSO

Table 4.2 reports the differences between the Dublin price and the weighted average of outside Dublin prices in percentage terms – negative signs suggest Dublin prices are cheaper. The sample is split into four arbitrary time periods to give some idea of convergence where

evident.

We observe in Table 4.2 some interesting findings which confirm the results in Section 3. Prices in the on-sales sector across all products are more expensive in the Dublin region. The price of stout which traditionally receives much attention is probably the least affected of the 'pint' prices – it is about 6% dearer. Beer and especially lager prices are some 10-12% more expensive. Spirit prices again are in the region of 7-9% more expensive and foreign lagers and beers reports prices 10% in excess of prices elsewhere. Convergence is not apparent in the high volume drinks. The take home market is very different in each instance. Prices in Dublin are significantly cheaper than in the rest of the country by around 5% but convergence in prices is more apparent in this market with the gaps falling to between 2% and 3% by the most recent time period.

We estimated some simple models explaining the Dublin/rest of country price premium/discount. Throughout the estimated models the time variables are positive and generally significant. Time effects are, however, very small – the price of the pint of stout converges at an estimated rate of around 0.26% per annum which suggests the current gap between Dublin and rest of country prices will take over twenty years to converge completely! This slightly exaggerates – the estimated regression functions and the graphical evidence in section 3 do suggest the convergence rate has accelerated slightly. However there is still a large and persistent gap that will take a marked change in regime if full convergence is to be achieved.

To examine if there has been a regime shift we implement a formal test for a structural break in the series which is arbitrarily set at 1993 quarter 3. This test (known as a Chow test) does suggest in some cases statistical difference in the properties of the time series pre-and-post 1993Q3 which might be part of a more general trend, but the convergence is trivially small - while reporting a statistical property is important one should clearly recognise the lack of any economic convergence by any gauge we might wish to use.

5. CONCLUSIONS

In this study we have generated a number of interesting findings for the expenditure patterns for alcohol sales in Ireland. Econometrics has, as always, been somewhat inconclusive thus far on the *precise* role licensing plays on demand for drink products in Ireland, but that some positive relationship between demand and licenses exists is an unambiguous finding of research in the UK. Taking this as fact implies an important caveat on the role of licenses in the context of the Irish laws as currently enacted – in the absence of dynamics from the granting of licences demand increases that occur due to income and demographic movements must manifest themselves in prices effects given the estimated price and income elasticities, the spatial relationship between licenses and population becoming distorted and the two-way relationship between demand and licences breaking down. A second key finding of the UK literature is the convergence of prices in the rural/urban geographical splits (or rather the lack of any persistence of differentials).

The data analysis of this study is based on a more sophisticated modelling procedure than is typically used in these models, and shows a number of interesting issues. A clear role for demographics is apparent by the manner in which regional influences show significance in the regression models with strong positive relationships between Dublin/urban residence and the demand for drink products in both on and off-sales. Income effects are also very strong – even after controlling for the impacts of other control variables. Time series evidence shows that a startlingly persistent gap exists between the Dublin region and the non-Dublin prices

across a range of products, despite differences in consumer expenditure patterns by product in the different geographical areas being controlled for.

APPENDIX A: HOUSEHOLDS REPORTING EXPENDITURE ON ALCOHOL (%)

	OFF SALES			ON SALES		
	<i>WINE</i>	<i>BEER</i>	<i>SPIRITS</i>	<i>WINE</i>	<i>BEER</i>	<i>SPIRITS</i>
<i>HBS 87</i>	10	11	7	5	60	28
<i>HBS 94</i>	17	20	9	8	60	25