Submission to the Liquor Licensing Authority

(Sale of Liquor Act 1989)

Submission in relation to 008/OFF/221/07

INTRODUCTION

1. Daniel Newman and Angela Dalton ("the Submitters") have previously been invited to present oral arguments supplementary to our objection to an application by ROSCOMMON LIQUOR LIMITED ("the Applicant") pursuant to section 31 of the Sale of Liquor Act 1989 ("the Act"). This objection relates to the premises situated at 8/255 Browns Road, Manurewa, Manukau City, known as "Roscommon Liquor".

2. We the Submitters based our objection on information relevant to the criterion codified in sections 32(1)(a) and 32(1)(e)(i) of the Act.

3. I live in Manurewa and am a member of the Manurewa Community Board. Angela Dalton lives in Manurewa and is a member of the James Cook High School Board of Trustees. We both have extensive involvement in supporting the community initiatives and take pride in advocating for projects, initiatives and public policy and regulatory outcomes that are consistent with and advance the welfare and well-being of local residents.

4. In lodging this submission, we are aware of the narrow application of the Act in relation to the criterion for objecting to an off-licence application. However the we are confident that the issues raised in our objection, which respond directly to information codified in the application, are of relevance to the Liquor Licensing Authority ("the Authority"). It is therefore appropriate that our arguments be considered when determining whether to approve the application by ROSCOMMON LIQUOR LIMITED.

CRITERIA FOR OFF-LICENCE

5. In considering the application for an off-licence, the Authority must have due regard to matters codified pursuant to section 35 of the Act. In particular, section 35(1)(e)(i) of the Act codifies the requirement for the Authority to consider the applicant's proposal to engage in:

"The sale or supply of any other goods besides liquor"

6. The applicant has expressed a desire to sell party pills. On 28 June 2007, the Associate Minister of Health, Hon Jim Anderton ("the Associate Minister") announced that the Cabinet agreed with his recommendation to ban the sale of benzylpiperazine (BZP) and other related party pills. The reclassification of BZP as a Class C1 drug pursuant to Schedule 3, Part One of the Misuse of Drugs Act 1975 will mean those found in possession of a Class C1 drug will be liable for a term of imprisonment of up to three months and/or a $500 fine.

7. We consider that the applicant's proposal to sell party pills is completely inconsistent with the current move to ban the sale of BZP and related party pills. Furthermore, we consider that the Authority must give due consideration to Cabinet's intention to reclassify BZP as a Class C1 drug.

8. Indeed the Authority interprets the intention of Parliament every single day. I note for example in Bruges vs Lijun Jia (12 December 2005: 007/OFF/104/2004), the Authority considered that Parliament made amendments to the Sale of Liquor Act to treat the supply of liquor to minors as a very serious abuse of liquor issue. So it is entirely appropriate that the Authority interprets and heeds the Cabinet's decision to reclassify BZP.

Adverse effects of prolonged consumption of BZP and related party pills

9. Party pills have two main active ingredients – benzylpiperazine (BZP) and trifluoromethylphenylpiperazine (TFMPP). BZP has been found to have effects similar to low potency amphetamine while TFMPP is reported to have effects similar to ecstasy.[1] BZP has been found to stimulate the release of both dopamine and serotonin in the brain. TFMPP is a serotonin releasing agent and binds to serotonin receptors in the brain. It has no therapeutic applications.

[1]Chris Wilkins, Melissa Girling, Paul Sweetsur, and Rachael Butler, *Methamphetamine and other illicit drug trends in New Zealand*, Massey University, November 2005. Available from http://www.shore.ac.nz/projects/METH%20IDMS%20report%2005%20_FINAL4_.pdf, p.10.

10. The physiological effects of BZP are not felt for up to two hours after oral ingestion, and some users inject BZP intravenously to experience a faster onset of action. The slow onset of action and slow abatement of symptoms are characteristic for that drug when taken orally. There is no evidence in any robust scientific studies as at December 2005 show that BZP has any therapeutic use in humans.[2]

11. The Expert Advisory Committee on Drugs (EACD) refers to the pharmacological, psychoactive and toxicological profile of BZP as indicating that the risk associated with its use is lower than that of methamphetamine, and broadly similar to that of ephedrine.[3] Ephedrine can cause chest pain, confusion, dizziness or fainting spells, hallucinations, numbness or tingling in hands and feet, rapid or troubled breathing, seizures, headache, anxiety, palpitations, insomnia, tremor and vomiting.[4]

12. According to the National Household Survey, the most common self-reported physical problems experienced were poor appetite (41.1 percent) and hot/cold flushes (30.6 percent) (see Table 1). The most commonly self-reported psychological problems were trouble sleeping (50.4 percent) and loss of energy (18.4 percent) (see Table 2). An Auckland study of party pill overdose presentations found that the most common presenting complaints of the overdose group were anxiety, palpitations, nausea, and vomiting. The next most common symptom complex was a decreased level of consciousness and confusion.[5] In February 2007 it was reported that the National Poisons Centre had fielded 399 help calls in the past four years relating to pills. The

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[2] EACD, 'Further EACD advice on benzylpiperazine (BZP) and related substances', 4 December 2006. Available from http://www.ndp.govt.nz/legalpartypills/documents/eacd-advice-bzp-4dec2006.pdf, accessed 30 March 2007, p.4.

[3] Ibid., p.3. The Misuse of Drugs Amendment Act 2000 established the EACD to provide expert advice to the Minister of Health regarding drug classification issues. The EACD: conducts reviews of controlled drugs and other narcotic or psychotropic substances; recommends to the Minister of Health whether and how such substances should be classified; and increases public awareness of its work by (for instance) releasing papers, reports and recommendations. National Drug Policy New Zealand (NDP), 'Expert Advisory Committee on Drugs'. Available from http://www.ndp.govt.nz/committees/eacd.html, accessed 30 March 2007.

[4] EACD, 'Advice to the Minister of Health – Ephedrine', November 2003. Available from http://www.ndp.govt.nz/committees/eacd/ephedrine.pdf, accessed 30 March 2007.

[5] Lynn Theron, Karl Jansen, and Jennifer Miles, 'Benzylpiperizine-based party pills' impact on the Auckland City Hospital Emergency Department Overdose Database (2002–2004) compared with ecstasy (MDMA or methylene dioxymethamphetamine), gamma hydroxybutyrate (GHB), amphetamines, cocaine, and alcohol', *New Zealand Medical Journal*, 120 (1249), 16 February 2007. http://www.nzma.org.nz/journal/120-1249/2416/content.pdf, p.4.

emergency advice calls included eight cases of children younger than six years taking them. Two children were younger than 18 months, and three younger than two years.[6]

13. In February a 23 year old man was placed on life support after suffering multiple organ failure. The man had consumed pills and alcohol while an analysis found traces of ecstasy in his body too.

14. Patients presented to Christchurch Hospital's Emergency Department with BZP toxicity occurred as early as 2001 but presentations were very infrequent until 2004 when there was a major increase. In 2005, four to five patients per weekend were seen with adverse and toxic effects from these pills.[7] During five months of data collection (1 April 2005 to 1 September 2005) by the Emergency Department 61 patients attended a total of 80 occasions with adverse effects after ingestion of party pills. Patients experienced symptoms that sometimes had persisted for up to 24 hours after ingestion. The most common symptoms were palpitations, vomiting, and agitation. Females presented with adverse effects more frequently than males. The most serious adverse effect was toxic convulsions in fifteen which led to two cases being placed on life support. The study concluded that many users were taking BZP-based pills without significant adverse effects but that BZP can cause unpredictable and serious toxicity in some individuals. [8]

15. According to the EACD, there was no evidence as at December 2006 of any deaths in New Zealand or internationally caused solely by BZP consumption. However, the EACD notes that toxic effects, especially BZP-related seizures that have been described even at relatively low doses have the potential to lead to death. The potential to cause death is increased by the way in which BZP is frequently used with other substances such as alcohol and in high doses.[9]

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[6] 'Alarms sound over party-pill poisonings', *Dominion Post*, 1 February 2007, p.8.

[7] Paul Gee, Sandra Richardson, Wolfram Woltersdorf, and Grant Moore, 'Toxic effects of BZP-based herbal party pills in humans: a prospective study in Christchurch, New Zealand', *New Zealand Medical Journal*, 118 (1227), 16 December 2005. Available from http://www.nzma.org.nz/journal/118-1227/1784/, accessed 30 March 2007, p.3.

[8] Ibid., pp.3-4 and 7-8; and personal correspondence with Dr Paul Gee, 19 March 2007.

[9] EACD, 'Further EACD Advice', p.4.

16. According to the EACD, some evidence suggests that BZP has the ability to create dependence. [10] In the National Household Survey found that 2.2 percent of users were classified as dependent. One Nelson Police youth aid officer has indicated that some young people have committed dishonesty offences to finance their consumption of pills.[11]

Table 1. Five most common self-reported physical problems from legal party pill use, 2006

Problem	Experienced (%)
Poor appetite	41.1
Hot/cold flushes	30.6
Heavy sweating	23.4
Stomach pains/nausea	22.2
Headaches	21.9

Table 2. Five most common self-reported psychological problems from legal party pill use, 2006

Problem	Experienced (%)
Trouble sleeping	50.4
Loss of energy	18.4
Strange thoughts	15.6
Mood swings	14.8
Confusion	12.1

Source: Wilkins, Girling, Sweetsur, Huckle, and Huakau, pp.31-32.

17. Faced with the mounting evidence of the harmful impact of prolonged consumption of BZP and related party-pills, Cabinet has wisely chosen to heed the advice of the EACD

[10] Ibid., p.4.

[11] 'Students stealing to buy party pills – police', *Nelson Mail*, 1 December 2006, p.1.

to move to reclassify those substances as a Class C1 drug pursuant to the Misuse of Drugs Act 1975.

Adverse effects of consumption of BZP and related party pills concurrent to alcohol

18. In a draft report commissioned by the Ministry of Health, the Medical Research Institute of New Zealand said that 43 percent of the 35 people who participated in a recent study suffered "severe adverse events" after being given a mixture of alcohol and BZP. The trial was ended in late 2006 after researchers became concerned over adverse effects experienced by participants.[12]

EACD advice to the Associate Minister of Health

19. On 4 December 2006 the EACD tendered advice to the Associate Minister pertaining to BZP and related party pills. On 5 May 2007, the EACD, having considered further information, reiterated the following comments to the Associate Minister.

- *"BZP is widely available, accessible and actively marketed.*
- *BZP is widely used: around 20% of people aged 13 to 45 have used party pills containing BZP, including nearly 50% of males aged 20 to 24. Around 15% of people aged 13 to 45 admit to using party pills in the past year.*
- *BZP is almost invariable used with alcohol.*
- *BZP is also included in some preparations intended for daily use such as dieting agents.*
- *Public perception is that party pills are being targeted to individuals under 18 year of age. Evidence also shows that under-18 olds are using BZP.*
- *Drug seizures are not relevant in this case, although the EACD is aware that Australian jurisdictions are seizing BZP that has been ordered over the internet and shipped from New Zealand."*

[12] 'Illness halts party pill study', *New Zealand Herald*, 21 January 2007, p.20; and 'Party pills lift driving ability, says research', *Southland Times*, 17 January 2007, p.2.

20. The EACD reaffirmed the following key points initially codified in its December 2006 letter, in the subsequent advice to the Associate Minister:

    - *"There are potential advantages in retaining BZP as a restricted substance, as the Misuse of Drugs Amendment Act 2005 has provisions allowing a range of restrictions to be put in place.*
    - *While scheduling BZP as a controlled substance under the MODA will lead to the removal of existing party pills from the legal market, the change in legal status is no guarantee that the availability and use of BZP will decrease. However, the committee points to the recent experience with GHB (Fantasy), where scheduling of the substance has led to a significant decrease in its use. In addition, the widely-described negative effects of BZP use (such as insomnia, headaches and nausea) suggest that this is not likely to be a drug that people will actively seek if it is less available, more expensive and carries risks associated with illicit status.*
    - *In theory, a regime could be put in place to control, inter alia, the availability, advertising and supply of BZP, which would address some of the concerns about its current availability and use. However, in practice this will require the establishment of a significant administrative and enforcement capacity, for example as there is for pharmaceuticals and for the legal drugs tobacco and alcohol."*

21. The EACD concluded by reaffirming its view that the implication of restrictions mean the burden of proof on the person supplying the substance to demonstrate the safety of a new psychoactive substance. The Submitters endorse this point entirely.