

# **A NEW TAX SYSTEM**

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## **DRAFT PUBLIC COMPLIANCE COMMITMENT**

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**United Distillers & Vintners (Australia) Ltd  
(ACN 004 167 720)  
(ABN 33004167720)**

## INTRODUCTION AND BACKGROUND

1. United Distillers & Vintners is the world's leading spirits and wine company and United Distillers & Vintners (Australia) Limited (UDVA) is the number 1 spirits company in Australia.
2. UDVA's portfolio includes such well known Full Strength Bottled Spirit (FSBS) brands as:
  - JOHNNIE WALKER® Scotch Whisky
  - SMIRNOFF® Vodka
  - BUNDABERG® Rum
  - BAILEYS® Irish Cream
3. UDVA also markets a portfolio of Ready-to-Drink (RTD) products which include:
  - STOLICHNAYA® LEMON RUSKI™
  - UDL® Premix Cans
  - BUNDABERG® RUM & Cola
4. The implementation of the New Tax System (ANTS), including the introduction of Goods and Services Tax (GST) and related tax changes, will have a significant impact on the UDVA portfolio. Key changes to the current tax regime include:
  - New excise duty rates to be applied to FSBS and RTD to offset the impact of the removal of Wholesale Sales Tax (WST).
  - Creation of two new categories being:
    - (i) Other Alcoholic beverages not exceeding ten percent alcohol content
    - (ii) Other alcoholic beverages exceeding ten percent alcohol content.
  - Application of the new full strength beer excise duty rate to category (i). products.
5. The key impact of the ANTS changes on FSBS is to shift the emphasis towards taxing alcohol by volume rather than product value, as was the case with WST. The result is a relative increase in the tax burden on cheaper brands and a decrease in the tax burden on premium brands. For RTD products the application of the full strength beer rate means a fall in price for spirit based RTD and an increase in price for non-spirit based RTD.
6. UDVA have taken a portfolio based approach to pricing, ensuring that the net dollar margin does not increase within each of two portfolios, full strength bottled spirits ("FSBS") and ready to drink products ("RTD").
7. Upon the introduction of GST UDVA is anticipating **no change or a decrease** in the recommended selling prices to the consumer of most FSBS products other than some cheaper brands, which we will attempt to minimise through the portfolio pricing approach. A reduction in the recommended selling prices of spirit based RTD products are expected with some small increase in the price of other RTDs.

## **1. UDVA'S COMMITMENT**

### **1.1 UDVA's Pricing Commitment**

UDVA is committed to ensuring that the full net benefit of ANTS changes is passed on to the final consumer and has identified and structured savings in a manner which should result in:

- (a) increases in recommended shelf prices only where necessary;
- (b) increases relative to pre GST pricing structure and bottle size;
- (c) no increases in recommended shelf price of more than 10%
- (d) no increase UDVA's dollar margin within each of the two portfolios, and in the case of spirit based RTD products reduce the dollar margin.

In fact, UDVA anticipates the following movements in Recommended Shelf Prices (RSP):

- (a) no change on JOHNNIE WALKER® Scotch Whisky, SMIRNOFF® Vodka or BUNDABERG® Rum
- (b) reductions on BAILEYS® Irish Cream Liqueur and MALIBU® White Rum
- (c) increases in lower price brands including value end Scotch whisky
- (d) reduction in spirits based RTD brands (eg. BUNDABERG® RUM & COLA and UDL® Premix)
- (e) no change on STOLICHNAYA® LEMON RUSKI™.

### **1.2 Compliance Commitment**

As part of UDVA's Trade Practices Compliance Program, UDVA will use all reasonable endeavours to:

- (a) comply with the Act, in particular Part VB of the Act;
- (b) not engage in price exploitation in relation to ANTS;
- (c) pass on to consumers any net cost benefits which result from ANTS;
- (d) advertise and display price as GST inclusive in a way that is not misleading or deceptive; and
- (e) continue to ensure that UDVA has an effective Trade Practices Compliance Program which will continue to be materially in accordance with the provisions of Australian Standard 3806 (1998).

## **2. UDVA's PRICING METHODOLOGY**

### **2.1 Portfolio Averaging**

The portfolio based approach to pricing has been adopted for the following reasons:

- (a) To maintain as far as possible the relative pricing across full strength spirits, by offsetting cost increases on value brands, with cost savings on premium and low ABV brands.
- (b) To enable UDVA to continue with a national approach to its pricing strategy.
- (c) To ensure that where possible familiar retail price points (eg. \$24.99) are maintained.

### **2.2 Cost of doing business savings**

UDVA expects to receive some cost savings from the reduction and abolition of Wholesale Sales Tax and other indirect taxes.

The savings are expected in the following areas:

- (a) Freight
- (b) Marketing and promotion

UDVA has also reviewed the economic modelling of Econtech applied on an industry basis and taken into account anticipated savings where appropriate. UDVA has also requested all major suppliers to provide information on price changes after 1 July 2000.

There is not expected to be any significant savings in the manufacturing process as UDVA is WST exempt. UDVA is committed to monitoring identifiable cost changes that result from the new tax system and ensuring that any cost reduction due to ANTS changes is passed on to consumers in the form of lower prices or smaller price rises.

### **2.3 Cost of Finance relating to new excise laws**

There is an increased cost of finance to the spirits industry due to the new legislation. This is as a result of the change in the rate and timing of excise payments. UDVA, based on current negotiations with its customers, expects to bear a significant proportion of these increased costs. This was the subject of a detailed submission to the Treasury by the Distilled Spirits Industry Council of Australia ("**DSICA**").

Cost savings from the collection of GST do not offset the additional financing costs.

## **2.4 Foreign exchange**

UDVA does not currently anticipate there will be any savings as a result of the impact of GST on the international exchange rates.

## **2.5 Compliance costs**

In assessing the net effect of the New Tax System on costs UDVA will include only those implementation and compliance costs reasonably incurred and directly attributable to the introduction of the New Tax System and offset any compliance cost reductions from the removal of the previous tax system.

A separate cost centre has been set up in UDVA's general ledger to which all consultant, systems and other direct costs of the GST implementation project have been charged. There are no capital charges expected to be incurred. No internal staff time has been included in the calculation of the cost of implementation. Reasonable costs of compliance have been included in the calculation of net dollar margins.

# **3. UDVA's COMPLIANCE PROGRAM**

## **3.1 Cost Savings Identification**

UDVA will continue to monitor cost changes and allocate the changes back across the two identified portfolios of RTD and FSBS. UDVA will contact suppliers on a quarterly basis up to 30 June 2001 and request details of any savings, which we expect should be passed on.

UDVA will particularly monitor the areas of interest, where ANTS price changes are most likely to occur. Those are:

- (a) Freight - due to changes in diesel fuel rate.
- (b) Marketing and promotion - those costs which include WST.
- (c) Areas referred to by Econtech in its industry modelling.
- (d) Responses from our suppliers in answer to our requests for current price information.

UDVA will appoint a member of staff to identify ANTS related savings as opposed any other changes to the cost of doing business, which are attributable to other commercial factors.

## **3.2 Staff training**

UDVA have taken the following steps to ensure its staff are well educated on the implementation of GST:

1. All staff have attended a GST educational workshop detailing the general impact of GST as well as the specific impact on UDVA's business
2. An "intranet" database was established to hold all relevant discussion documents, educational materials and a question and answer forum.
3. End to end processes and systems testing has been run to ensure computer systems are compliant, processes are updated and staff are familiar with the changes.

### **3.3 Customer communication**

Where possible UDVA will provide our customers with information on their obligations to assist them to comply with the Act and guidelines.

As a member of DSICA, UDVA have been heavily involved in both the Government liaison as well as providing up to date information to customers with as much information and assistance as possible which has included to date

- (a) customer presentations by sales representatives
- (b) informal meetings with key customers
- (c) letters to all customers covering a number of topics including:
  - (i) impact of ANTS on alcohol industry
  - (ii) transitional rules for stock
  - (iii) excise rate changes
  - (iv) UDVA approach to pricing
  - (v) Administrative changes to business processes

### **3.4 Advertising and promotional review**

UDVA has engaged Ernst & Young Law to review all communications with customers for compliance with Section 52 of the Trade Practices Act.

### **3.5 Ernst & Young Review**

UDVA have engaged Ernst & Young accountants for the duration of the GST project to assist in ensuring UDVA is GST ready as well as ensuring we comply with all legislative requirements.

## **4. ACCC PROCEDURES**

### **4.1 Communication**

- (a) If the ACCC receives a GST related enquiry from either a consumer or a supplier for which it considers that an explanation is required by UDVA, the ACCC Liaison Officer (appointed under Clause 4.3) will contact the UDVA Liaison Officer and inform UDVA of the issue. UDVA will use its best endeavours to cooperate with the ACCC to resolve the issue subject to the law and the provisions of the Act, following a review and investigation for circumstances. The UDVA Liaison Officer will report to the ACCC and provide supporting information to the ACCC in relation to the examination of an issue.
- (b) If the procedures fail to resolve the issue to the satisfaction of the ACCC, UDVA's managing director will contact the ACCC's Executive General Manager, GST Operations and they will discuss the issue and attempt to come to a satisfactory resolution.

### **4.2 Liaison Officer**

UDVA Finance Director will be the Liaison Officer with the ACCC and will maintain ongoing contact with the ACCC with regard to this commitment. In particular, the UDVA Liaison Officer will:

- (a) be appointed first contact for the ACCC for any queries or requests the ACCC may have; and
- (b) inform the ACCC of any developments or changes in the industry which, in the opinion of UDVA's Liaison Officer, may be of relevance to the ACCC and, in particular, any developments which may necessitate a variation of this Commitment.

The UDVA Liaison Officer will be responsible for:

- (a) Ensuring enquiries relating to GST and ANTS are dealt with promptly and satisfactorily;
- (b) identifying particular UDVA practices and procedures which have given rise to enquiries and which may require review or more urgent attention; and
- (c) if, following a review and investigation of an enquiry, UDVA needs to take action to address the conduct that gave rise to the enquiry, ensuring that UDVA:
  - (i) takes any necessary action (including stopping the relevant conduct and, if necessary, and if appropriate, such other forms of redress);

- (ii) adjusts its practices and procedures to avoid a recurrence of the conduct; and
- (iii) reviews the affected practices and procedures

#### **4.3 ACCC Liaison Officer**

The ACCC will appoint a Liaison Officer who will be the point of contact with the UDVA Liaison Officer.

### **5. GENERAL**

#### **5.1 ACCC Regular Communications**

UDVA will report to the ACCC the findings of its quarterly reviews from 1 July 2000 to 1 July 2001 and thereafter on a basis to be agreed by UDVA and the ACCC.

#### **5.2 Public Register**

The ACCC may place a copy of this Commitment on a Public Register.

#### **5.3 Legal Status of this Commitment**

With the exception of this clause, this Commitment is not legally binding however, UDVA intends to implement the terms of this commitment.

John Pollaers  
Managing Director

