



**Recent Regulatory Developments
Surrounding Alcohol Correction**

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Introduction

- For many years, alcohol correction has been coupled with a deterioration in organoleptic characteristics and lack of consumer interest in the product.
- However, increasing alcohol levels to supply consumer preferences for full flavoured wines coupled with the impacts of climate change have renewed interest in producing full flavoured wine that are lower in alcohol.
- Technology has now caught up and consumer appeal is reported to be strengthening.



Increasing demand

- New Zealand research supports that the potential for lower alcohol wine on key export markets is positive.
- This research also supports that demand is not restricted to occasional drinkers, but also to premium wine producers.



Regulatory environment

- Alcohol correction is subject to widely differing rules and regulations around the world.
- These rules are continually changing as producers and regulators juggle the desire to produce these products with the desire to maintain their current regulations.
- This is where the different regulatory philosophies between New World and Old World producers arise.



New World philosophy

- Regulate outcomes not processes.
- Maintain flexibility.
- Require ability to call a product 'wine', no matter the alcohol content.
- Restrict additives and processing aids to a positive list, but a list that meets modern processing requirements.
- Quality is a result of the characteristics of the wine, not the place it comes from.
- Produce to consumer preferences.



Old World Philosophy

- Regulate all processes – create a Wine Standard
- The wine must meet this standard and anything that does not comply can not be called wine.
- This standard is immutable.
- Wine quality is a determinant of place.



Regulatory environment

- In many jurisdictions, rules on oenological practices and treatments for the elaboration of “wines with reduced alcohol” and “alcohol-free wines” are not specified.
- Therefore, these products are subject to the horizontal regulations in particular on food ingredients (additives, flavourings, enzymes).
- This often widens the permissible additives and processing aids permitted to be used in the manufacture of these products.



European industry position

- A key reason for European Industry opposition to adopting new oenological practices and similar labelling requirements to traditional 'wine' is that it will open up the specific wine regulation to regulators.
- The fear is that this will mean adoption of horizontal regulation and the loss of special wine regulations including exemption for ingredient labelling, protection of geographical indications and loss of control of production methods.



Key developments

- OIV developments
- Australian addition of water to aid fermentation
- Australian Tax Office Rulings
- International developments on the classification of wine.



OIV definitions

- In 2012, the OIV adopted 2 definitions:
 - ECO 432-2012: “Beverage obtained by dealcoholisation of wine” (TAV<0,5% vol)
 - ECO 433-2012: “Beverage obtained by partial dealcoholisation of wine” (TAV between 0,5% vol and the minimum alcoholic strength of wine)
- There is still no definition of sales denominations, as these definitions do not preclude the denominations “*dealcoholised wine*” and “*partially dealcoholised wine*” to be used respectively in case the legislation of each MS allows it.”



Current works

- Work is in progress for the definition of the products in the “grey zone”: alcohol reduced beyond 20% but respecting the minimum alcoholic strength of wine.
- European Union member states are very concerned about opening up the definition of wine either through products below *% alc/vol or through new oenological practices.



Oenological practices

- Adoption in 2012 of Resolutions OENO 394A-2012 (Dealcoholisation of wine) and OENO 394B-2012 (Correction of the alcohol content in wines):
 - *Resolution 394A describes the general framework of the dealcoholisation, in particular the techniques (partial vacuum evaporation, membranes, distillation).*
 - *Resolution 394B introduces the limit of 20% of alcohol content (instead of 2% vol.) for the dealcoholisation of wine*



General principles

- As a baseline, for wines with alcohol corrected, only oenological practices and treatments which are already authorized for wines and sparkling wines in the OIV Code of oenological practices should be permitted.
- For beverages produced from wine or special wine below 0.5%vol a number of other options could be considered.



Does the OIV matter?

- The OIV resolutions will be adopted into European law.
- Flexibility in oenological practices and labeling promote a legal framework shaped in a way which allows the smooth development of the production and marketing of those products, free from disproportionate burdens and barriers to trade in the Internal Market and at international level.
- The industry in Europe supports the need for harmonized definition for low alcohol and alcohol/free wine and its oenological processing practices.



Addition of Water

- In most countries the addition of water to reduce alcohol is forbidden.
- In Australia water addition is permitted to 7% to cover all necessary incidental water incorporation given typical additive requirements and unavoidable winemaking practices such as pushing through transfer lines with water.
- This permission to add water arguably does not, however, extend to the deliberate addition in order to lower the sugar concentration of incoming musts.



New developments

- Following a number of approaches from our members and the Australian Grape and Wine Authority (AGWA), WFA has made an application to vary an existing Standard in the *Australia New Zealand Food Standards Code* (the Code); Standard 4.5.1 – Wine Production Requirements and Standard 2.7.4 Wine and Wine Product to permit the addition of water to facilitate fermentation.
- The rationale for this change is to explicitly enable the addition of water to dilute high sugar must to aid fermentation.



Australian Tax Office (ATO) Developments

- The ATO has a concern about products where base wine and/or grape products are processed in a way that remove rather than enhance the wine characteristics.
- The ATO view is that the resulting beverage is likely to be a product of those other processes rather than the product of fermentation of grapes. This will mean that it is not wine and not subject to WET



Key issues for the ATO are:

- characterless products being sold as wine (often high strength, for example around 22% alcohol by volume)
- the use of carbon or other processing aids that noticeably strip product characteristics
- the use of permeate streams from reverse osmosis (other than recombining after adjustments, or mere additive levels)
- the use of low sugar juice (grape condensate) beyond mere additive levels
- the order of the steps of production and their impact on the classification of the end product
- lack of fermentation (such that the product cannot be said to be the product of fermentation as required to be wine).



Addition of 'low sugar grape juice

- The ATO also pays close attention to the addition of LSJ is the product of either:
 - Grapes that have been crushed and the juice of which is then subjected to a heating and cooling process to produce a distillate which has a low sugar content; or
 - Grape wine which is then subjected to a dealcoholisation process. The dealcoholised wine is heated and cooled to produce a distillate which has a low sugar content.
 - For example, if LSJ is added to a grape wine and the blend is then fortified by the addition of grape spirit it may not be classified as a grape wine for the purposes of section 31-2 of the WET Act.



Grape juice as an additive

- Grape juice (including concentrated grape juice) is allowed as an additive. The ATO determines whether or not low sugar grape juice used in the production of the beverage is consistent with the normal production of wine.
- If the final beverage consists of by volume of low sugar grape juice larger than considered normal for an additive, the beverage is not considered to be a product of the complete or partial fermentation of fresh grapes or products derived solely from fresh grapes to which permissible additives have been added. As such, the beverage is not a grape wine for the purposes of section 31-2 of the WET Act.



Reverse osmosis

- It is the view of the ATO that the permeate arising from the reverse osmosis process is not a product of fermentation of fresh grapes or products derived solely from fresh grapes. It is a product of the reverse osmosis process that creates it. Permeate alone is therefore not wine.
- However, at this stage, any reduction in the alcoholic strength (such as by molecular filtration, or reverse osmosis) does not impact on a product's status as grape wine.



International developments at the Customs level

- There has been a long-standing debate over the proper Customs classification of certain types of alcohol beverages within the World Customs Organisation's (WCO) approach to classifying products.
- Classification determines tax and tariff treatment in international trade.
- HS Chapter 22 was set up so that fermented alcohol beverages, whether subject to further filtration processes or supplemented with alcohol, retained their customs classifications as fermented products.



Market vs production test

- An emerging question has revolved around whether the "essential character" of fermented products has been so altered in the production process that they should be reclassified as "distilled."
- This has led customs to apply a 'production test' or a 'market test'.
- Reverse osmosis and filtration are both processes brought into question and may result in a product being re-classified for tax purposes from a wine/wine product to a spirit.



The European debate

- In Europe, for some time, there has been a debate on alcohol removal through technologies such as spinning cone and reverse osmosis.
- European Regulation historically has not permitted the making of wine below the regulated minimum alcohol level (this level varies between member states). It also does not allow alcohol removal through technologies such as spinning cone and reverse osmosis.
- With a growing trend for lower alcohol and lighter style wines, the European industry has becoming increasingly interested in being permitted to produce such wines.



EU Regulation

- The general rule within the EU is that wine must have an alcohol content of more than 8.5% in order to be called “wine”. (There are of course many derogations for specific EU products as well as derogations for some WWTG countries under bilateral agreements.)
- In terms of EU oenological practices, in addition to meeting the minimum alcohol requirements, products labelled as “wine” must not have undergone a mechanical dealcoholisation process that reduces the initial alcohol content by more than 20%.



EU member state position

- Products outside these parameters are not defined in EU regulations.
- There is a strong position within some EU Member States to prevent products made using mechanical dealcoholisation techniques from using the word “wine” in the product description entirely.
- Below the legislated limit also prevents the use of the world wine.



Conclusions

- Complex regulations hinder the promotion of lower-alcohol wines.
- The European regulators approach is to restrict any change to traditional wine making practices so as to protect the ‘integrity’ of wine. This is supported, in general, by the industry.
- The industry rationale is that if the regulations are made more flexible there is a concern that the European Commission will seek to apply horizontal food regulation to wine, thus removing some of its benefits from a separate standard (e.g. exemption from ingredient labelling).



Conclusions

- This situation is in a state of flux and highly subject to challenge as regulators seek to define products for tax purposes.
- In Australia, developments by the ATO mean that the use of many practices to reduce alcohol run the risk of attracting excise taxes in the future. This area remains one of considerable concern for the sector and regulation continues to evolve.
- Harmonisation of regulations internationally remains a high priority for the sector.