Attorney Pascale Zougheib

المجلة القضائية

The Growth of the Black market in the Total Beverage industry

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The black market in the alcohol industry started as a result of Prohibition laws in the early 20th century. These laws restricted or banned the sale and consumption of alcohol, creating a demand for illicit alcohol. In addition to the severe health risk for consumers, the illegal trade in alcohol results in substantial losses in tax and duty revenue for governments. According to the Euromonitor report, the financial loss to governments in these countries is as much as US$ 3.6 billion annually. These findings correspond to a 2016 EU Intellectual Property Office report that estimated counterfeit spirits and wine drain €1.2 billion (US$1.4 billion) in government revenues in Europe, of which €739 million (US$843 million) are excise duties. For industry, the main impact relates to lost market shares, costs associated with intellectual property theft, reputational damage, and consumer trust.

There are several ways to counterfeit alcohol, including refilling bottles with tainted or contaminated goods, imitating the look of an actual bottle, and using fake labels or fake designation of origin labels. These false labels portray the product as having quality ingredients and premium alcohol, whereas the product's ingredients and origin might come from anyone. In addition, in an attempt to duplicate the style and labeling of natural liqueurs and premium spirits, alcohol forgers have been known to offer gray market commodities with mediocre or hazardous imitation components.

Several examples of tainted alcohol have occurred around the globe, such as in June 2020, where Turkish police seized up to 18 tons of counterfeit alcohol contaminated with ethanol which is a non-consumable form of alcohol often found in acidic cleaners and created by bootleggers to avoid new alcohol taxes in the region.

Experienced counterfeiters and bootleggers can easily copy bottles and labels, and then these counterfeit products show up in black-market sales. For example, in May 2020, more than 70 deaths were attributed to tainted black-market alcohol in Yucatan, Mexico. In addition, contaminated alcohol is often peddled in nightclubs and tourist spots. Consequently, in 2018 the United States State Department issued an advisory for US citizens heading to Mexico and encouraged caution when consuming alcohol while traveling in Mexico.

The black market in the alcohol industry refers to the illegal production, distribution, and sale of alcoholic products, which often evade taxes, regulations, and quality control measures. This unlawful market has several impacts on the legal alcohol industry and society. Some of the critical implications of the black market in the alcohol industry are:

Loss of Government Revenue: The black market in alcohol avoids taxes and other government fees, resulting in a significant loss of revenue for governments. This can impact public services and programs that are funded by these revenues.

Decreased Quality: Black market alcohol products are often produced in unsanitary and unregulated conditions, leading to reduced quality and dangerous consequences.

Increased Crime: The production and distribution of illegal alcohol products can lead to increased criminal activity, including organized crime and gang violence.

To reduce the impacts of the black market in the alcohol industry, governments and the legal alcohol industry can take several steps, including:

Improved Regulation: Governments can tighten regulations on the alcohol industry to reduce opportunities for black market production and sales. This can include stricter licensing requirements, increased inspections, and more substantial penalties for illegal activity.

Taxation: Governments can increase taxes on legal alcohol products to reduce the price gap between legal and illegal products, making it less appealing for consumers to purchase black market products.

Public Awareness: Education and awareness campaigns can effectively educate the public about the dangers of black-market products and encourage consumers to purchase only regulated and taxed alcohol products.

Enforcement: Governments can increase efforts to shut down illegal alcohol production and distribution operations, including raids, arrests, and confiscating illicit products and equipment.

Industry Collaboration: Governments can work with the legal alcohol industry to address the challenges posed by the black market, including sharing information and resources, working together on enforcement efforts, and supporting industry initiatives to promote legal and regulated alcohol products.

The motives behind the illicit trade of alcoholic beverages are numerous, including:

The price differential between legal and illicit products: High import tariffs and domestic taxation not adapted to the local context encourage illegal firms to exist, allowing them to improve their profit margins and offer clients lower pricing than typical businesses.

Inadequate penalties and enforcement: the lack of enforcement and minimal penalties for illegal alcohol-related activity, in addition to the lack of appropriate controls at the border and the poorly controlled distribution channels, and the insufficient cooperation between enforcement authorities & legitimate operators are factors that led to the high demand on illicit alcoholic beverages.

The lack of public awareness: the limited knowledge about the risks of illicit alcohol and the identification of illegal beverages, the social acceptability of illicit trade, and the local customs and traditions, especially involving artisanal alcohol, influenced the growth of the black market.

The restrictions and excessive burden on legal products: the restrictions on the availability of legal products (limited licensing hours, import quotas, quantitative limits on outlets that can sell alcohol, e-commerce bans) and the inadequate legal framework for alcoholic beverages created opportunities for illicit trade operators to expand their work.

In the MENA region, the black market for alcohol has been fueled by high taxes and strict laws, making it difficult for people to purchase alcohol legally. In addition, the black market has also grown due to the desire of people to obtain high-quality or luxury brands, which are often not available through legal channels.

Governments in the MENA region have taken steps to reduce the black market in alcohol by increasing enforcement, increasing penalties for illegal alcohol production and sales, and improving consumer education. Some countries have also reduced taxes on alcohol to reduce the incentive to purchase it illegally.

The United Arab Emirates introduced significant legal reforms to alcohol consumption laws. As a result, the nation is moved past its Islamic personal laws and adopted a more progressive approach to such issues.

Previously, people needed to hold a license to be allowed to consume, buy, sell, or transport alcohol, even if above the legal age. Although in practice, rarely did any bar, restaurant, or hotel ask buyers to present their alcohol license.

Nevertheless, Article 313 of Federal Decree-Law No.15 of 2020 removed this requirement, and people can enjoy alcoholic beverages in authorized areas without the fear of prosecution; there shall be no punishment for consuming, possessing, or trading alcoholic drinks in the situations and at places allowed as per applicable legislation. Accordingly, it has been determined that alcohol will only be authorized to be consumed privately or in officially sanctioned public venues.

It must be noted that only those over 21 are legally permitted to drink, and selling to underage persons is still an offense. Furthermore, like most countries, driving under the influence in the UAE is subject to a zero-tolerance policy; the blood alcohol limit is 0.00.

Also, alcohol prices are higher than average in the UAE, so this remains a barrier for those looking to purchase. Further amendments were made to Federal Law No.3 of 1987, which strictly prohibited Muslims from consuming alcohol. This was changed in the 2020 law.

As of January 1, 2023, the government suspended the 30 percent alcohol tax for one year until December 31, 2023. The tax previously applied to the consumption and sale of alcoholic beverages in licensed establishments or stores. Meanwhile, the 5 percent sales tax on the purchase and consumption of alcoholic drinks remains unaffected by the tax exemption.

However, the suspension of the alcohol tax has yet to be accompanied by an obligation on the part of stores or establishments to reduce prices accordingly, so it will become evident during the suspension period to what extent this reduction will benefit consumers. Furthermore, the license fee, which is still required for the purchase of alcohol, will be suspended for the same period, although residents of the emirate only need this license; meanwhile, tourists will be able to purchase alcohol without a request simply by presenting their passports.

Keywords:

Illicit products, counterfeit alcohol, black market, excise taxes, total beverages industry, reforms, regulations.

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