

Title: Licensing Act 2003: proposals to reduce burdens of licensing on those who sell limited amounts of alcohol as part of a wider service (“ancillary sellers”) and for community sellers. IA No: Lead department or agency: Home Office Other departments or agencies:	Impact Assessment (IA)
	Date: 06/03/2014
	Stage: Final
	Source of intervention: Domestic
	Type of measure: Primary legislation
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Summary: Intervention and Options	RPC Opinion: Green: Fit for purpose (08/05/2014)

Cost of Preferred (or more likely) Option				
Total Net Present Value	Business Net Present	Net cost to business per year (EANCB on	In scope of One-In, One-Out?	Measure qualifies as
£19.5m	£19.5m	-£2.0m	Yes	OUT

What is the problem under consideration? Why is government intervention necessary?

The current licensing regime is seen as burdensome for many local community groups (such as the Women’s Institute or church groups) who want to sell alcohol at small-scale events throughout the year, at different premises, and who must, under the current regime, apply for a Temporary Events Notice (TEN) for each event at a cost of £21 per application (unless the premises they are using has a premises licence).

In addition, the current premises licences regime is also seen as unnecessarily costly and burdensome for “ancillary sellers” of alcohol (e.g. bed & breakfast providers) who would like to sell (or “give”) minimal amounts of alcohol to their customers as part of a wider business contract - a “complimentary” alcoholic drink in such contexts constitutes a sale in law.

Government intervention is designed to resolve these problems for both groups. Its proposal for a new authorisation under the Licensing Act 2003 – the Community and Ancillary Notice (“CAN”) – would, subject to strict controls, allow such community groups and ancillary sellers of alcohol to sell small amounts of alcohol in “low risk” environments without incurring heavy bureaucratic and financial burdens of the current regime.

What are the policy objectives and the intended effects?

The Government is committed to freeing up responsible local communities and businesses by reducing administrative burdens and to giving more flexibility to local authorities to take licensing decisions that reflect local needs. The proposal for the new CAN authorisation is intended to lower the bureaucratic and cost burdens of licensing on “ancillary” sellers of alcohol and community groups, without undermining the statutory licensing objectives (preventing crime and disorder and public nuisance; protecting children from harm; public safety).

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

For this final stage Impact Assessment we have considered 2 options:
Option 1: Do nothing
Option 2: Introduce the CAN for ancillary sellers and community groups. The preferred option is Option 2 as this will significantly reduce burdens while ensuring key safeguards remain.

Will the policy be reviewed? It will be reviewed. **If applicable, set review date:** It is expected to be reviewed 5 years after implementation as with other licensing reforms.

Does implementation go beyond minimum EU requirements?	N/A				
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.	Micro Yes	< 20 Yes	Small Yes	Medium Yes	Large Yes
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)	Traded: None		Non-traded: None		

I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs.

Signed by the responsible Minister _____ Date: _____

Description: Introduce a new authorisation under the Licensing Act 2003 (“the CAN”) by which ancillary sellers and community groups can obtain authorisation to sell alcohol in limited circumstances throughout the course of a year, without incurring the higher costs and burdens associated with a premises licence or TENs.

FULL ECONOMIC ASSESSMENT

Price Base Year 2010/11	PV Base Year 2010/11	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: 8.2	High: 30.8	Best Estimate: 19.5

COSTS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant)	Total Cost (Present Value)
Low	0		0.13	1.09
High	0		0.35	3.00
Best Estimate	0		0.24	2.05

Description and scale of key monetised costs by ‘main affected groups’

Those “ancillary sellers” of alcohol (see below for definition) and community groups that wish to take advantage of the new CAN authorisation will need to pay a fee to the licensing authority for processing the notice. This cost is estimated to be £1.0m and £1.1m (PV over 10 years) for ancillary sellers and community groups respectively. This cost is offset by savings to community groups (compared to under the TENs system) and by profit to ancillary sellers.

Other key non-monetised costs by ‘main affected groups’

There will be a small familiarisation and notification cost to licensing authorities but these are expected to be minimal. It is possible that there may be a very small increase in alcohol-related crime and health harms due to increased consumption as the policy should result in more premises being able to sell or supply alcohol. Resultant enforcement costs are low.

BENEFITS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant)	Total Benefit (Present Value)
Low	0		1.10	0.93
High	0		3.65	33.80
Best Estimate	0		2.37	21.55

Description and scale of key monetised benefits by ‘main affected groups’

Ancillary sellers will benefit from increased profit from alcohol sales; this is estimated to be £12.7m (PV over 10 years). Community groups will no longer need to apply for TENs to authorise the sale of alcohol achieving administrative savings of around £8.9m (PV over 10 years).

Other key non-monetised benefits by ‘main affected groups’

Consumers are expected to benefit from the ability of ancillary sellers and community groups to provide alcohol as part of a wider service.

Key assumptions/sensitivities/risks	Discount rate	3.5
<p>This new authorisation could, in being cheaper and easier to acquire than a standard premises licence, increase alcohol availability. This could, in turn, increase alcohol-related harms. However, proposed rules and safeguards will mitigate these risks. These are outlined in more detail below.</p> <p>Several assumptions have been made regarding expected take-up rates for the CAN and the benefits to business. The sensitivity analysis in Annex B shows that the annual impact on business varies from -£1.20m to -£3.17m (EANCB, 2009 prices) between the most and least conservative scenarios.</p>		

BUSINESS ASSESSMENT (Option 2)

Direct impact on business (Equivalent Annual) £m:	In scope of	Measure qualifies
Costs: 0.2 Benefits: 2.2 Net: 2.0	Yes	OUT

Evidence Base (for summary sheets)

A. Strategic Overview

A.1 Background

The Government's Alcohol Strategy and overarching commitments to cut red tape

1. In March 2012, the Government published its Alcohol Strategy, setting out a range of measures to tackle the issue of excessive alcohol consumption and its associated harms¹. It recognised the importance that the alcohol trade plays in the social fabric of society and its contribution to the economy of around £29 billion a year,² as well as the annual costs of alcohol misuse estimated at £21 billion per year and the fact that alcohol related crime accounts for nearly half of all violent crime³.
2. In November 2012, following Red Tape Challenge (RTC) commitments (announced in September 2011), the Government launched its Alcohol Strategy consultation. The consultation not only looked at ways to tackle alcohol related harms, but also set out proposals for giving licensing authorities greater freedom to take decisions that reflect the needs of their local community and at ways to free up responsible businesses from unnecessary burdens of the licensing regime and supporting local growth.
3. The 'Next Steps' Government response, published in July 2013, set out a tranche of proposals to cut red tape in the licensing system. Many of these were introduced as a package of measures in the Government's Deregulation Bill in January 2014. The package includes: powers for licensing authorities to make exemptions within their local areas for late night refreshment licensing; a measure to abolish the criminal offence of selling liqueur confectionary to a child under 16 and therefore remove a burden on retailers; abolishing the need for licence holders to report the loss or theft of their licence documents to the police and show proof that they have done this, before applying for duplicates (so removing a burden on businesses and the police); increasing the limit on the number of temporary events that can be held annually at single premises from 12 per year to 15 per year to increase flexibility for community groups and businesses; and scrapping the current requirement to renew a personal licence every ten years.

The existing alcohol licensing regime

4. The Licensing Act 2003 ("the 2003 Act") regulates: the sale of alcohol (and its supply in club premises with membership). The 2003 Act also regulates the provision of entertainment and late night refreshment (i.e. hot food and drink between 11 pm and 5 am). Licensing authorities (LAs) – i.e. district and borough councils or unitary councils – administer the system of licensing under the 2003 Act. LAs must currently carry out their functions with a view to what is appropriate to promote the statutory licensing objectives (the prevention of crime and disorder; public safety; the prevention of public nuisance; and the protection of children from harm).
5. There are currently three different kinds of authorisation under which the licensable activities can be provided:
 - Premises licence: to use a premises for licensable activities, subject to conditions.
 - Club Premises Certificates: to allow a qualifying club (i.e., a members' club such as a working men's club or a political club) to engage in qualifying club activities, including supplying alcohol to members, again, subject to conditions on the certificate, and;
 - Temporary Event Notices (TENs), which enable the user to carry out licensable activities without other authorisation. They are used for "one-off events" or by existing premises licence

¹ The Alcohol Strategy (published March 2012) is available on the Government's website:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/98121/alcohol-strategy.pdf

² The economic outlook for the drinks sector in the UK and the impact of changes to excise duty and VAT announced as part of the 2008 budget, Oxford Economics, February 2009.

³ Crime Survey for England and Wales, 2011-12 - Crime Statistics released-Focus on Violent Crime and Sexual Offences 2011/12 and Nature of Crime tables, published February 2013. In 47% of violent incidents in 2011/12 the victim believed the perpetrator to be under the influence of alcohol. This is at a similar level to 2010/11 (44%), British Crime Survey.

or club premises certificate holders who wish to carry out licensable activities beyond what is set out in the terms of their existing licences. Further details of the TENs regime – which is closest in terms of its processes to the new Community and Ancillary Notice (CAN) – is set out at **Annex A**.

6. Personal licences. The 2003 Act also requires that every sale of alcohol under a premises licence must be authorised by a **personal licence holder (PLH)**, who must meet certain criteria before being issued with a personal licence (including undergoing a criminal records check and obtaining an accredited qualification and paying a fee, currently £37).⁴
7. Additionally, under the 2003 Act, premises licensed with authorisation for alcohol sales must specify the **Designated Premises Supervisor (DPS)** for that premises. This person must be a **personal licence holder (PLH)**. This will normally be the person with day to day responsibility for running the premises. Under the 2003 Act, each licensed premises (204,400 as at 31 March 2013⁵) therefore needs to have a PLH acting as a DPS. “Community” premises such as village or church halls enjoy exemption from the requirements to have a personal licence and a DPS in place.

Specific proposals for reform included the Alcohol Strategy consultation

8. The Alcohol Strategy public consultation (November 2012 to February 2013)⁶ asked for views on two specific policy areas (both of which have ultimately led to the development of the new CAN proposal which is the subject of this IA):
 - reform of the TENs regime
 - reforms to reduce burdens on ancillary sellers.

TENs reform

9. The Government consulted on a proposal to free up businesses and community groups alike by increasing flexibility in the TENs regime by increasing the number of TENs allowed per year. It has decided to increase the annual limits from 12 to 15. See separate IA.
10. The Government also consulted on permitting a locally-determined system of TENs for community groups, allowing licensing authorities to accept a TEN by a simple email, for example, rather than the current 7-page statutory “application” form.
11. The problem that this proposal was purporting to solve was that many community groups want to sell alcohol at small-scale events throughout the year at different community premises in their local areas, such as church halls. So, unless they are making use of a premises with a pre-existing premises licence or club premises certificate in place, for each event they hold they must submit a TEN application and pay the fee of £21.
12. Local licensing authorities (LAs) have said that in most cases events at which alcohol is sold under the TENs regime are considered to be “low risk” and the requirements of the TENs regime may therefore be disproportionate. Of the 137,119 standard and late⁷ TENs submitted to LAs in 2012/13 and for which there are central Home Office records, less than 1% are prevented from going ahead or are modified by the police.⁸
13. Allowing licensing authorities to develop their own simplified local systems for some groups to help them avoid burdens was seen as a response to this problem. However, feedback from LAs during the consultation was that such a system would be difficult to administer and risked a lack of take-up in some areas thereby causing significant regional disparities. It also ran the risk of creating

⁴ The Licensing Act 2003 (Fees) Regulations 2005, Schedule 1 – fees in force for a TEN as at July 2013

⁵ Alcohol and late night refreshment licensing England and Wales 31 March 2013 tables⁵. This figure includes estimates for LA areas not providing statistical returns, <https://www.gov.uk/government/publications/tables-for-alcohol-and-late-night-refreshment-licensing-england-and-wales-31-march-2013>

⁶ <https://www.gov.uk/government/consultations/alcohol-strategy-consultation>

⁷ <https://www.gov.uk/government/publications/tables-for-alcohol-and-late-night-refreshment-licensing-england-and-wales-31-march-2013>⁷ Table 1612

⁸ See above. Table 16.12 Of the total number of TENs given in 2012/13 and for which data was returned to the Home Office 2011/12 (137,119), 1,538, 1586 were withdrawn (a number of reasons likely), 1,010 were modified following intervention by the police or environmental health authority; 1,119 counter notices were issued.

confusion for community groups. The CAN proposal (covered by this IA) seeks to solve these difficulties by creating a new national scheme, but including an element of local discretion (see below).

Ancillary sellers

14. The Government consulted on two specific policy proposals around “**ancillary sellers**” of alcohol. Ancillary sellers are businesses selling alcohol as a small or subsidiary part of a wider business contract. The provision of a “complimentary” gift of alcohol in a business context also constitutes a sale in law. At this stage, it is proposed to limit eligible ancillary sellers to accommodation providers who are otherwise unlicensed, for example bed and breakfast providers and guest houses wishing to offer a “complimentary” glass or bottle of wine to customers. Such groups argue that the requirements of a premises licence (see below) are overly onerous and disproportionate to the level of licensable activity that they wish to engage in.
15. One option that the Government consulted on was to remove some of the burdens on such ancillary sellers, for example, by allowing them the same rights to seek exemptions for the requirements for DPS and PLH authorisations of sales that community premises enjoy. However, under this option, they would still need to seek a premises licence and it is arguable that this measure did not go far enough.
16. The second more radical proposal for ancillary sellers was to create a brand new authorisation to sell alcohol under the Licensing Act 2003 - the ancillary sellers’ notice (ASN) – to allow them to sell alcohol with lower costs and a lighter touch process than that for the current premises licences’ system.
17. Responses via the published consultation (700 approximately) and from the technical discussions with key partners that ran alongside it were mixed. 45% of respondents thought the measure would reduce burdens on ancillary sellers (39% did not; 16% didn’t know). A small majority (53%) thought that the proposal would have an adverse impact on the statutory licensing objectives i.e. run the risk of increasing crime and disorder and public nuisance etc. The licensed trade have particular concerns about creating an unfair two tier licensing regime with a lighter touch easier system for some and an onerous, more rigorous process for others. They have highlighted the risk of loopholes being exploited by unscrupulous operators. The Government believes that these concerns can be addressed by ensuring clear parameters under which any new authorisation should operate and clear safeguards. One of the ways in which the Government is doing this is by limiting ancillary sellers to accommodation providers at the outset (as mentioned above) with scope to expand the proposal in the future if it is working well with no problems. This reflects responses in the consultation which showed that a small majority (55%) thought that the list of eligible business types should include accommodation providers, providing alcohol alongside accommodation as part of the contract, with a slight minority believing that hair and beauty salons and florists should be included by being able to provide alcohol alongside a treatment or purchase of flowers (38% and 36% respectively).
18. We hold some limited data on the numbers of “ancillary sellers” who hold a premises licence (or operate using the TENs system) currently. LAs are not required to return this information to central Government as part of licensing statistics, however they are now required to publish information on their websites about new licence applications (since April 2012).

The detail of the new CAN proposal

19. The Government has decided to **take the proposal for the new ASN forward but to expand its scope**. The proposal covered by this IA takes key elements of the consultation proposals for the ASN and the proposal to make the TENs regime easier for community groups, whilst retaining an element of local discretion. It creates a simple new “licence” process – the CAN - to allow small-scale, “low” risk alcohol sales over 36 months, without the need for a premises licence or TEN providing there is no objection from the police, environmental health authority (EHA) or the LA.
20. The CAN is therefore aimed at two eligible groups:

- **“Ancillary sellers”** (e.g. bed & breakfast providers) that would like to sell (or provide as part of a wider business contract) minimal amounts of alcohol to customers. The definition of ancillary seller will be covered by the parameters that will apply to the amounts and the context (see below).
 - **“Community groups”** (e.g. charities; church choirs; the Women’s Institute) that may regularly hold small “one-off” events at which they wish to sell alcohol. While the law provides for them to do so under a temporary events notice (TEN), they complain of bureaucratic burdens; costs (£21 each) and limits for TENs (12 per year).
21. It is not possible to simply exempt these groups from licensing altogether given the risks of abuse and loopholes and the need to retain licensing controls, including rights of entry for police and LAs, and powers to prevent such activity.
22. **At this stage, it is envisaged that key elements of the new authorisation will be that:**
- A prospective CANs user will give notice to the LA (either on a simple form or via email/letter) that they are going to operate either as (i) an “ancillary” or (ii) “community” seller.
 - Notification will specify the relevant premises at which they intend to sell alcohol: in the case of an ancillary seller this can be just one premises; community groups could name up to three premises within their local area
 - The LA may reject or revoke a CAN at any point under a light-touch process to be triggered by an objection from the police or EHA on grounds of the licensing objectives (the prevention of crime and disorder; the prevention of public nuisance, public safety, protection of children from harm).
 - Local discretion: LAs could reject CANs in their own cumulative impact policy (CIP) areas.
 - CAN users need not hold personal licences (which many consider will be a risk and unfair to the licensed trade) but they could be named as “responsible persons” who could be prosecuted for certain criminal offences under the 2003 Act. It is already the case that community premises such as village and church halls are exempt from the requirements to have a PLH and DPS.
 - Licensing costs are recovered from the fees so there would need to be a small processing fee.
23. **The operation of activities (alcohol sales under a CAN) would be subject to certain parameters to provide safeguards against loopholes that could be exploited by unscrupulous operators. At this stage, the Government envisages that they would include the following:**
- All sales of alcohol between “low risk” prescribed times, for example, 7am to 11pm.
 - “Ancillary sellers” to be strictly defined by reference to business types, for example small Bed and Breakfasts, guest houses and self catering accommodation providers.
 - Ancillary sellers may only supply limited amounts of alcohol to their customers (e.g. up to three units per individual customer over 18 in a 24 hour period) possibly explained in user friendly language e.g. one 175ml “standard” glass of wine), one 75ml bottle of wine in a room per two night stay or between two adults with a meal.
 - Alcohol sale must take place within the public facing area of the business which directly relates to the main service being provided.
 - A cap on the size of community event (e.g. up to 300 people) and tickets must be sold to the event either before or on the door.
 - “Community sellers” are defined as non-profit making bodies, charities, voluntary sector etc. Alcohol sold by community sellers must be ancillary to a wider event e.g. a performance or flower show or talk or meal. Only the equivalent of an average of up to three units of alcohol per person

over the aged of 18 attending the event and in any 24 hour period may be sold by the community group.

These are provisional details. CANs users would need to have a clear understanding of their legal responsibilities (not selling alcohol to children for example) but the “rules” should be clear to all and easy to follow, based on the principle that only small amounts of alcohol will be sold in specific circumstances. Clear and simple user friendly parameters should help keep enforcement costs low.

Wider alcohol strategy: interdependencies

24. We have considered whether there are interdependencies with other policies arising from the Government’s Alcohol Strategy. With the exception of TENS, we do not believe that the wider package measures that the Government plans to introduce alongside this proposal have an impact on the CANs proposal or vice versa.
25. The proposal on TENS does interact with the CANs proposal. It increases TENS limits from 12 per year to 15 per year (See separate IA of 5 May 2013).
26. The TENS limits proposal will increase the flexibility for TENS users as they will be able to have 15 temporary event periods a year instead of just 12. The TENS proposal will retain the 21 day limit of the number of days that can be covered under a TENS.
27. The typical ancillary seller wishes to sell alcohol throughout the year – not at “one off” events – the complaint for ancillary sellers via the RTC website was that they find the premises licences regime too onerous. We have concluded that the changes to the TENS regime are unlikely to affect the vast majority of ancillary sellers or that it would affect their take up of the CAN.
28. By contrast, community groups do use TENS on a regular basis. Based on feedback from a sample of licensing authorities, between 17% and 26% of TENS are from community groups not at existing licensed premises⁹. We therefore assume that an average 20% of TENS are from community groups who would qualify to take up the CAN. A smaller number of TENS will be given by community premises (church and village halls, for example) with existing premises licences wishing to extend the usual hours of those premises licences. Other TENS would be given by existing premises – bars, clubs, restaurants wanting to extend their usual hours to a later time or by businesses wanting to hold “one off” events at which alcohol is sold (festivals and weddings for example). Such business users of TENS will not be eligible to be a CAN user, but will benefit from being able to hold more events under TENS under the new regime.
29. There is a key interdependency for those TENS users who are community groups and want to sell alcohol at their events throughout the year. Some will opt for the CAN while others (who want to sell greater amounts of alcohol at larger events) will continue to take up TENS. Decisions on locally set fees and fee caps are yet to be made, however, when locally set fees are introduced the CAN fee cap is likely to be set lower than that for TENS. This is also likely to have a bearing on the type of authorisation preferred by community groups and businesses. See below. We do not hold specific data on the numbers of community groups who hold TENS and the types of events held under TENS, but have considered this group. Some will use the new CANs regime instead of using TENS in future. We estimate that there will be a reduction in the number of TENS.
30. We do not expect that the reduction in the number of TENS will affect the impact of the recent policy increasing the maximum number of TENS permitted in a given year. This is because it is estimated that it is typically licensed premises, rather than unlicensed premises, that use the maximum number of TENS allowed per year¹⁰. Only unlicensed community groups are expected to ‘apply for’ CANs. The use of CANs by community groups is therefore expected to reduce the total number of TENS, but will not reduce the benefits that are expected to result from increasing the maximum number of TENS for any individual organisation.

⁹ See Ancillary Sales Notices IA

¹⁰ See TENS IA

31. The costs and benefits of these proposals are estimated in this IA, building on evidence received during the consultation period.

A.2 Groups Affected

Licensing authorities

32. Licensing authorities are responsible for the administration of the 2003 Act, and would be responsible for the local implementation of the new CAN licensing authorisation. The fee for the CAN (see below) will cover their administration cost.

The police

33. The police will act as “relevant persons” on a par with the TENs regime for the purposes of CANs. This means that they will have the opportunity to object at the point at which a CAN is given and to revoke a CAN once operational, if there are grounds to do so under the licensing objectives.

Environmental health authorities (EHAs).

34. Like licensing authorities, EHA functions sit with district and unitary local authorities in England and Wales. They will have the same powers as the police to be “relevant persons” for the purposes of CANs.

Ancillary sellers of alcohol

35. Ancillary sellers of alcohol, particularly guesthouses and self-catering operators, will potentially benefit from exemptions. The Government intends to make the CAN available to a defined set of responsible businesses, starting with certain accommodation providers with scope to include more business types in future through secondary legislation if the CAN is working well with no problems. Those businesses where there is a clear conflict of interest and for which a premises licence will be more appropriate will be excluded.

Community Groups

36. Community groups – defined by their being non-profit-making or having charitable status and having local memberships (examples include charities and churches, groups like the Women’s Institute and local political parties who may regularly hold small ‘one off’ events at which they wish to sell alcohol).

Consultation

Within Government:

37. Cabinet Committee clearances were gained for the publication of the Government’s consultation on measures in the Alcohol Strategy and for the Government’s response to this consultation (published on 17 July 2013). These clearances include official and Ministerial level discussions with other Government departments, including the Department of Health, Department for Business, Innovation and Skills, Her Majesty’s Treasury, HM Revenue and Customs, the Department for Culture, Media and Sport, and the Department for Communities and Local Government.

Public Consultation

38. The public consultation on the Alcohol Strategy ran from 28 November 2012 to 6 February 2013 and around 1,450 responses were received. Some 700 responses were received in relation to the proposals on ancillary sellers and TENs. During the consultation period, officials held seven consultation events, inviting licensing authorities, police, health bodies, business representatives and the public where discussions focussed on a set of key questions from the consultation. There were also four technical working groups specifically focussing on reducing bureaucracy which were attended by licensing officers, police, trade and business representatives and legal representatives. As noted above the proposal for the new CAN under discussion in this IA was not a specific proposal within the public consultation, but the public consultation did include key elements of the CAN, i.e. a new notice for ancillary sellers and on local discretion for light touch, localised systems for TENs. The revised and combined policy of the new CAN combines these core elements as noted above.

Rationale

39. An effective and proportionate regulatory framework is essential to public safety and crime prevention and will also ensure that responsible businesses are not undermined by irresponsible businesses. If misused, alcohol is a dangerous substance and the Government takes the view that the overall framework provided by Licensing Act 2003, as amended by the Police Reform and Social Responsibility Act 2011, is appropriate. However, a well run and diverse hospitality industry has the potential to boost growth and representatives of this industry have highlighted concerns as part of the Red Tape Challenge about some of its administrative burdens.
40. Respondents to the hospitality theme of the Red Tape Challenge expressed concern that the licensing regime of the Licensing Act 2003 (the 2003 Act) deterred small accommodation providers, such as guesthouses and self-catering establishments, from obtaining authorisations. These businesses would like to sell relatively small amounts of alcohol as part of a single contract for the wider service of providing accommodation. Examples included a glass of wine with an evening meal, or a bottle of wine included in a 'welcome pack'. The administrative costs and fees required to possess a premises licence under 2003 Act has deterred such operators because it is out of proportion with the limited nature of the sales. The 2003 Act therefore has the effect of restricting the profits that such operators might make and the benefits to potential consumers of their products. As the risks, in terms of alcohol misuse, associated with ancillary sellers are considered to be low, the protective benefits of the 2003 Act do not offset these costs.
41. In addition, representatives of organisations such as charities, churches and other community groups have previously questioned whether the TEN process is a proportionate system for those who would like to hold small 'one off' events at which they would like to sell alcohol. There is a strong argument for an additional, less burdensome authorisation to allow those groups to hold these events while retaining some licensing controls to retain rights of police entry and powers to prevent such activities, mitigating the risk of abuse.
42. The Government is committed to removing unnecessary regulation and exploring further how it can make the day to day process of licensing as easy as possible for all responsible businesses. The policy objective behind this proposal in this IA is to reduce the administrative burdens of the 2003 Act without undermining the licensing objectives¹¹.

Options

43. For all the above reasons, the two options are
- **Option 1:** Do nothing, so that the full licensing process remains in place for ancillary sellers as for other sellers of alcohol.
 - **Option 2:** Introduce the CAN by which ancillary sellers and community groups can apply for permission to sell alcohol without the need to apply for a premises licence or a TEN. The details of the CAN are set out above.
44. **Option 2** would allow "ancillary sellers" and community groups to apply for a CAN to remove the need for personal or premises licences. It is proposed that a premises user will give notice to the licensing authority (LA) as set out at paragraph 22. Notification requirements, to be prescribed by regulation, will be minimal.
45. The CAN, however, will only authorise small scale sales of alcohol as set out above within a series of strict parameters and restrictions, including limiting the amount of alcohol sold by both groups and the number of attendees at community events, and the times at which alcohol can be sold. LAs will have at least two weeks to process a CAN after it is given and will be able to issue a counter notice up to the day before it is due to take effect. The police and EHAs will be able to raise objections on the basis of the licensing objectives to a CAN during the three days after it is given and the LA will be required to consider those objections. The police and EHA will have powers to object to or revoke a CAN at any point under a light-touch process if they have grounds to do so under the licensing objectives. The Government is not proposing at this stage to allow for a hearing or other appeal, as

¹¹ The four licensing objectives (which all have equal status) are: the prevention of public nuisance; the prevention of crime and disorder; public safety; and the protection of children from harm.

with late TENs now. The CAN is a light touch process for the user. It will be a light touch process to revoke and CANs users who wish to sell alcohol will have rights to seek a new CAN after 12 months have elapsed following revocation, or to apply for a premises licence or TEN. Given the light touch revocation process, for which there will be no right to a hearing or appeal, it is assumed that enforcement costs will be low.

E. Appraisal (Costs and Benefits)

GENERAL ASSUMPTIONS & DATA

CANs fee

46. The CAN is a brand new authorisation with no precedents within the existing fees system. Assessing the likely CAN fee can only be made by reference to the current fees regime for existing processes administered by licensing authorities under the 2003 Act as well as work done in relation to proposals for a locally-set fees framework. At this stage, we suggest that the closest analogy in terms of the legal provisions and policy might be the Temporary Event Notice (designed to be light touch and allowing for the sale of alcohol over the course of a temporary event lasting for up to 7 days) and in particular the late TEN as the CAN process will not involve a hearing. There is a requirement for the fee to cover all processing and administrative costs for licensing authorities in administering the particular authorisation. Decisions on setting a fee will be based on comparable authorisations including the TEN. The CAN will be a simple notification process and light touch revocation keeping enforcement costs low. Fees for pure notification processes alone under the 2003 Act are low: for example, £10.50 for changes of address. When locally set fees reforms are brought into force by the Government in due course, the decision as to CANs fee will be for licensing authorities to make subject to a nationally imposed cap, for example £50.

47. It is assumed that the likely fee for a CAN will be considerably less than the lowest value premises licence (£100) as well as being subject to the aforementioned likely fees cap. It is also recognised that the fee may be slightly higher than for a TEN set at levels agreed as part of the 2003 Act (£21)¹². It is therefore assumed, for the purposes of this appraisal, that the fee will be roughly the mid-point of £20 and £50 i.e. **£35**. The sensitivity of the impact to this assumption is explored in Annex B. The result of this sensitivity analysis shows that the net OUT (EANCB, 2009 prices) varies from -£1.99m under a £50 fee to -£2.03m with a £20 fee.

Benefits from the CAN

48. In order to assess to potential benefits from the CAN we have used assumptions about what businesses that do not hold personal and premises licences under the current regime would be willing to pay to sell alcohol. We know that they would not be willing to pay more than the cost of a combined personal and premises licence, since they have not applied for this under the current regime. We therefore assume that they would be willing to pay somewhere between nothing and the combined cost of a personal and premises licence. We have assumed that the benefit from the CAN is the midpoint of this range.

49. This figure depends on what the relevant cost of a personal and premises licence is. The initial cost of obtaining a premises licence is estimated to be £717-£1,305 and a personal licence is estimated to cost £308 (these figures include both fees and application costs)¹³. In addition, there is a £193 annual fee for the premise license.¹⁴ The cost that is relevant for assumptions regarding the benefits that these licences provide to businesses therefore depends on the timeframe over which businesses would assess the decision. We have assumed that businesses assess this decision over five years, such that they would only have applied for a personal and premises licence if they would expect to recover the costs within five years. We have based this assumption on the small size of the businesses involved, the relatively small costs involved, and evidence that small businesses tend to assess costs and benefits over no longer than a five year period.¹⁵¹⁶ The sensitivity of the impact to

¹² The Licensing Act 2003 (Fees) Regulations 2005, Schedule 1 – fees in force for a TEN as at July 2013

¹³ See Ancillary Sales Notices IA, Annex A & B

¹⁴ See Ancillary Sales Notices IA, Annex A & B

¹⁵ For example, based on correspondence with the Hair and Beauty Industry Authority and guidance such as found on p8 here: http://www.deloitte.com/assets/Dcom-Ireland/Local%20Assets/Documents/IE_Audit_Business_plan_0909.pdf

¹⁶ The UK five-year survival rate for businesses born in 2007 and still active in 2012 was 45% and in 2012 the business death rate (i.e. business de-registrations) was 10.7%. On an industry basis hotels and catering, including B&Bs, which the CAN is likely to have a significant

this assumption is explored in Annex B. The result of this sensitivity analysis shows that the net OUT to business (EANCB, 2009 prices) varies from -£1.59m under a ten year time horizon to -£3.17m under a two year time horizon.

Current noncompliance

50. There is some anecdotal evidence that many of the community groups undertake events at which alcohol is sold without licences and some ancillary sellers currently provide alcohol without a licence. These organisations are breaking the law currently and are already reaping some of the benefits that the CAN would provide to compliant organisations. We expect that some of these organisations will continue to operate illegally without a licence, while some will adopt the CAN and will reap the benefits associated with removed risk of prosecution and the ability to sell alcohol openly as a legitimate part of their business.
51. In order to account for noncompliance in the impact of the policy, we have assumed that between 0 (negligible) -10% of ancillary sellers are currently noncompliant, with a central estimate of 5%. We have conservatively assumed that these noncompliant businesses will not benefit at all from the CAN and so have excluded them from our estimates of take-up numbers for ancillary sellers. We recognise that there is, by nature, very limited evidence on the level of noncompliance, and our estimates are therefore based on anecdotal evidence¹⁷ which suggests that even those ancillary sellers who do currently supply alcohol without a licence only do so at certain times of year, such as Christmas. We have explored the impact of the uncertainty in these estimates by including a sensitivity analysis in Annex B. The result of this sensitivity analysis shows that the net OUT to business (EANCB, 2009 prices) varies from -£1.95m under an assumption of 10% noncompliance to -£2.07m under an assumption of 0% noncompliance.
52. There is also anecdotal evidence that many of the community groups already undertake events at which alcohol is sold without licences. We have accounted for this fact by basing our estimates on the take-up levels for community groups on the number of TENs currently issued, which will include only those groups who are operating legally using the TEN.

COSTS

PUBLIC SECTOR COSTS

Licensing Authorities' Costs

53. The TENs process involves a hearing and the proposed CAN process does not. Objection by the police or EHA will require revocation by the LA. The process of securing the CAN authorisation is light touch. The process for revoking the CAN will be similarly light touch. An objection notice from the police or EHA will automatically trigger a counter/revocation notice given by the licensing authority and so invalidating the CAN. That said we would expect objections and complaints in connection to CAN to be similarly very rare due to the limited nature of the activities that would be licensed by a CAN.
54. The CAN process will simply require a notification by the prospective CANs user. If sent electronically, this will be forward by the LA (or automatically if a simple form is used via the LAs' electronic licensing system (ELMs) to the relevant persons for the purposes of CANs (the police and EHA). The CANs fee is designed to cover all administrative costs to the LA. Therefore we assume that there are no additional costs to LAs.
55. Licensing authorities will need to familiarise themselves with the change in policy. The Home Office will communicate the changes via the GOV.UK website; to leading trade bodies; and through the Guidance issued under s.182 of the 2003 Act. Therefore, it is expected that the communication cost to licensing authorities will be minimal.

effect on, had the lowest five year survival rate of just 37%. This provides some evidence to support the chosen maximum time horizon of five years over which businesses would assess benefits (ONS statistical bulletin, Business Demography, 2012).

¹⁷ For example, this newspaper report: <http://www.telegraph.co.uk/news/newstoppers/howaboutthat/3535865/Hairdressers-face-jail-for-offering-customers-mulled-wine.html>

Enforcement Costs

56. Monitoring and enforcement of the 2003 Act is conducted by licensing authorities, the police, and, in some cases, by Trading Standards. This proposal may result in a very slight increase in the number of premises selling alcohol lawfully. The circumstances of the sales, and the amounts sold, will be strictly limited. Crucially, based on complaint by the relevant persons for the purposes of the CANs regime – the police or EHA – as with TENs (based on the licensing objectives) or concern from the police that the parameters of the CAN are not being abided by (e.g. too much alcohol being sold), the CAN can be withdrawn. There is no onus on LAs to check up and police the system. *Therefore we assume that there are no additional enforcement costs.*

Crime and Health Costs

57. Option 2 is primarily aimed at reducing the bureaucratic burdens and costs on businesses. In this it is fundamentally different from other proposals in the Alcohol Strategy aimed at reducing the harms caused by excessive alcohol consumption. There is nevertheless a risk that Option 2 may lead to a very small increase in the overall consumption of alcohol given the increased opportunities to sell it. Again, there is no data on the typical consumption associated with ancillary sellers and community groups so we cannot quantify this. However, since the average increase in profits that we have estimated is very low (less than £1,500 per year, see 'benefits' section), we believe that the associated increase in consumption would also be small.

58. Alcohol consumption is associated with crime, particularly violent crime, and ill health^[2]. There is therefore a risk that any increase in alcohol consumption brought about through Option 2 could lead to an increase in alcohol-related crime and health harms. However given the lack of evidence on the consumption effect of this proposal and the different nature and application of the SchARR model¹⁸, it is not possible to model these harms. Although, there were concerns that the ancillary sellers proposals in the Government's consultation ran the risk of increasing loopholes and risked undermining the licensing objectives, the consultation responses to and discussions around these proposals generated no evidence to counter the assumption that costs are expected to be low.

59. In addition to the very limited activities permitted, we consider that this risk is mitigated by the fact that the type of premises affected are not those typically associated with alcohol-related crime, and that the safeguards provided by the application process and the CAN (such as the applicability of offences at the premises) will apply. In rare cases where problems emerge, a process will exist whereby the CAN could be revoked.

BUSINESS COSTS

Currently unlicensed premises (Ancillary and community groups)

60. Establishments that are currently not licensed to sell alcohol and choose to issue a CAN will have to pay the cost of obtaining the CAN only. Covering a 36 month period only, businesses wishing to use a CAN will incur this cost **every three years**. Businesses will not need to hold a Personal Licence in order to use a CAN. For the purposes of business costs, community groups are considered to be civil society organisations which are in scope for one-in-two-out.

Licensed premises (Ancillary)

61. Those establishments which are already licensed to sell alcohol but wish to become ancillary sellers and therefore exempt from the premises licence fee will have to pay an application fee to apply for the CAN.

62. It is assumed that businesses that are already licensed to sell alcohol but are eligible to become ancillary sellers will choose to do so due to the substantially lower annual fee and administrative costs associated with a CAN.

Application costs for CANs

[2] See impact assessments on minimum unit pricing and ban on multi-buy promotions for a summary of the evidence.

¹⁸ The SchARR model estimates, at a very detailed level, the impacts of the policy concerned on the *consumption* levels for different types of alcohol consumers, and then goes on to use these figures to estimate the eventual impact on factors such as crime and health. Because of the level of detail in which the analysis is done, it would not be possible to input a consumption effect directly, even if such an estimate existed.

63. In addition to the estimated fee of £35 charged for a CAN, there will be a small administrative cost for applying businesses. We propose that this will be much simpler than for an application for a premises licence. CANs users will simply have to give their name and address, specify that they are operating as an ancillary or community seller within the parameters set out in legislation, name their business or organisation and confirm the name and address of the premises being used. The estimate for the administrative cost of applying for a premises licence form (see below) is £50, around three hours of administrative time at £16.96¹⁹. We will assume that the CAN form is significantly shorter, and will take an average of 10 minutes. Therefore the administrative cost of an application is approximately **£2.80**.
64. The total costs to business, based on the numbers explained in the ‘potential beneficiaries’ section below and the unit costs described above, work out at between £0.11m and £0.31m per year on an average annual basis, with a best estimate equal to the midpoint of £0.21m. In present value terms over the ten year appraisal period, this is equivalent to between **£1.1m and £3.0m**, with a best estimate of **£2.0m**. Of this, £0.9m is a cost to ancillary sellers while £1.1m is a cost to community groups.

BENEFITS

Potential beneficiaries – Ancillary Sellers

65. We hold only limited data on the numbers of “ancillary sellers” who hold a premises licence (or operate using the TENs system) currently²⁰. The responses to the RTC²¹ indicate that the key potential beneficiaries amongst “ancillary sellers” include: accommodation providers that do not currently possess a premises licence, but have indicated that they might be inclined to acquire one if the burdens were reduced. Given the restrictions on the quantity of alcohol sales that may occur under a CAN, it is assumed that accommodation providers which have already purchased premises licences will either be ineligible or will find it less profitable to switch to using a CAN. Therefore, it is assumed that accommodation providers who are currently holders of premises licences are not potential beneficiaries. See Background section.

Guesthouses and self-catering establishments

66. It is difficult to estimate the number of premises in these sectors who might benefit from the proposals. Figures released by People 1st, based on Office of National Statistics data, indicate that there are 10,400 serviced accommodation businesses and 2,600 non-serviced accommodation providers²². However, these figures are based on VAT-registered businesses, and it is thought that many guesthouses and self-catering establishments fall below the VAT threshold. VisitBritain’s estimates for the total number of establishments (see below) are substantially higher, although they are for England only.
67. We will assume that VisitBritain’s figure broadly represent the number of establishments in England, including non-VAT registered, smaller business (which are more likely to benefit from the proposal). To estimate the number in **both** England and Wales, we will assume that the total proportion is the same as in the total visitor accommodation units according to ONS: 14,165 in England and 1,635 in Wales (Wales estimate is 11.5% of England estimate)²³.

¹⁹ See Ancillary Sales Notices IA, Annex B.

²⁰ LAs are not required to return this information to central Government as part of their licensing statistics.

²¹ “We wish to allow guests to pre-order champagne for special occasions (to be waiting for them in a B&B room) or a bottle of wine to go with their dinner in the self-catering accommodation...”. **English Association of Self Catering Operators (May 17)**: EASCO would support a change to the Licensing Act that would allow a light-touch approach to extremely low volume sales of alcohol. Where for example the owner of a holiday cottage wishes to offer a welcome pack to guests including a bottle of wine, this may represent a supply of no more than a few dozen bottles in a year and as such the process of alcohol licensing is an excessive regulatory burden for such small-scale alcohol supply.

<http://www.redtapechallenge.cabinetoffice.gov.uk/2011/09/hospitality-food-and-drink-regulations/>

²² State of the Nation 2010, page 23 Table 6. Based on Great Britain data from Annual Business Inquiry 2008, Office for National Statistics (data released 17 November 2009); figures rounded to nearest 100. Figures are for UK businesses, “non-serviced” is self-catering accommodation, holiday centres & youth hostels.

²³ Office for National Statistics, Supply Side of Tourism Report 2009, published 3/2/2012, Table 12, page 34.

Table 1: Estimates for the number of accommodation businesses/ establishments:

	VisitBritain ²⁴ (England)	Estimated number in Wales 11.5%	England & Wales estimate
Serviced accommodation ²⁵	25,597	2,944	28,541
Non-serviced accommodation ²⁶	26,426	3,039	29,465

Serviced accommodation

68. The definition of ancillary sellers will not include premises that operate bars, room service, or other more formal forms of alcohol sales. This is because they would sell alcohol otherwise than as part of a single contract for a wider service. For example, 4,200 hotels possess 24-hr licences²⁷. Other serviced accommodation providers may have licences that do not extend for 24 hours. Given that the larger premises with bars are more likely to be VAT registered, we will assume that between 4,200 and 10,400 serviced accommodation providers (the estimated number of serviced accommodation providers according to ONS) operate more formal forms of alcohol sales, leaving around 18,141 – 24,341 potential beneficiaries, of which we estimate 5% to be currently noncompliant.

Non-serviced accommodation

69. The trade body for the self-catering sector, the English Association of Self-Catering Operators (EASCO), has suggested that virtually no self-catering premises are currently licensed, and therefore do not operate bars etc., meaning 29,465 potential beneficiaries of which we estimate 5% to be currently noncompliant.

70. Premises that do not have a licence: we estimated (above) that, for serviced accommodation, there were around 18,141 – 24,341 potential beneficiaries. For non-serviced accommodation, we estimated around 29,465.

71. The CAN is a new concept. We only have the evidence from the RTC and support from the hospitality industry to suggest how popular the CAN would be. As in the Impact Assessment for Ancillary Sales Notices, we assume that 6%-9% of the current estimated number of serviced accommodation establishments; and 3% - 6% of the estimated number of non-serviced accommodation providers for the first three years due to a gradual take-up²⁸. This is 1,034 - 2,081 in the serviced sector; and 840 – 1,680 in the non-serviced sector, a total of 1,874-3,761 beneficiaries in the first year, rising to 5,377-10,482 after three years.

72. Estimated take-up for Option 2 is 1,874 – 3,761 establishments in the first year, increasing to a total of 5,377 – 10,482 after three years.

Potential beneficiaries – Community Groups

²⁴ State of the Nation 2010, page 24 Table 7. Figures are for England only. The source notes that much a much larger estimate exists for UK hotels, 46,019 in Horizons for Success 2009, UK food service industry in 2008. The English Association of Self-Catering Operators likewise provided a much higher estimate for self-catering establishments (in England only), 60,000. Given these higher estimates, it is reasonable to assume that the VisitBritain figures are a reasonable estimate despite the fact that other accommodation types are included.

²⁵ "Serviced accommodation" includes: bed and breakfasts, country houses, farms, guest houses, hotels, inns etc.

²⁶ "Non-serviced accommodation" includes: campsites, holiday dwellings etc

²⁷ Licensing statistical bulletin http://www.culture.gov.uk/images/research/Licensing_Statistics_Bulletin2010.pdf page 9

²⁸ See Ancillary Sales Notices IA for more. This is based on evidence from a 2009 impact assessment [Legislative reform orders: proposals to introduce a simplified process for minor variations to premises licences and club premises certificates and remove the requirement for a designated premises supervisor and personal licence at community premises (2008), page 70 <http://webarchive.nationalarchives.gov.uk/20100407120701/http://www.culture.gov.uk/images/consultations/LicensingconsultationJuly2008minorvar.pdf>].

73. Community groups such as churches, charities and similar organisations wishing to sell alcohol currently would either need to apply for a premises licence and personal licence; a club premises certificate (if they were eligible) to apply for a club premises certificate to sell alcohol or alternatively apply for a Temporary Events Notice (TEN) in order to hold 'one-off' events at which alcohol is sold.
74. The CAN will allow community groups to enjoy many of the benefits typically gained from a TEN but at considerably less administrative burden and cost. There is also the possibility that some community groups that do not already use TENs may be tempted to apply for CANs and so this would increase the number of community events at which alcohol can be sold.
75. For the purposes of this Impact Assessment, we focus on those community groups that currently use TENs and estimate their potential saving through using the new CAN. This is the group for which we are able to provide more robust estimates of volumes. We know currently that around 125,217 TENs are issued each year²⁹. Of these, based on feedback from a sample of licensing authorities between 17% and 26% are from community groups not at existing licensed premises³⁰. We therefore assume that an average 20% are community groups who would qualify to take up the CAN and that in line with our assumptions for ancillary sellers, uptake increases over the first three years. We assume that each CAN issued to community groups will cover from two to four events per year, and so the number of community groups taking up the CAN will be between one half and one quarter of the total number of TENs that would have been issued by these groups. *The estimated take-up for these businesses is 1,565 – 5,217 in the first year, increasing to a total of 4,696 – 15,652 after three years.*

BENEFITS TO BUSINESS

Ancillary Sellers

76. It is assumed that a business will choose to apply for a CAN as an ancillary seller if it is economically viable to do so. In other words, that they will either break even or make a profit.
77. We have used the assumption, as outlined above, that businesses under the current regime would have chosen not to apply for a personal and premises licence if they would not recover the costs within five years.
78. Currently, a business is likely to have made the decision to not sell alcohol because the potential profits made by selling alcohol would not cover the cost of a premises and personal licence (i.e. their potential profits from selling alcohol are below the cost of a premises and personal licence). The cost of obtaining a premises licence is estimated to be £717-£1,305 and a personal licence is estimated to be £308 (these figures include both fees and application costs)³¹. In total then this cost ranges between £1,026 and £1,614. In addition, there is a £193 annual fee for the premise license.³² There are also several costs associated with variation fees, making changes to the terms of a licence. These have been estimated at £11 annually³³. The present value of the total cost of the premise and personal licences over five years therefore ranges between £1,775 and £2,363. Hence these figures (minus the £72 present value of the cost of CANs over five years) are the estimated maximum potential profits that businesses who might apply for a CAN could make over five years from selling alcohol.
79. We assume therefore that those businesses that could make between £72-£1,775 (low estimate) or £72- £2,363 (high estimate) profit over five years after paying the premises licence will now see it as economically sensible to do so. The average profit per establishment is therefore assumed to be the midpoint of these two ranges, at £924-£1,218 over five years, or between £167 and £200 annually. This may appear to underestimate the potential profits. However, an ancillary seller who expects to make a significant profit can obtain a premises licence under the current arrangements.

²⁹ Alcohol and Entertainment Licensing Statistics for England and Wales 2011/12

³⁰ See Ancillary Sales Notices IA

³¹ See Ancillary Sales Notices IA, Annex A & B

³² See Ancillary Sales Notices IA, Annex A & B

³³ This estimate is based on the fees for variations (<https://www.gov.uk/government/publications/alcohol-and-late-night-refreshment-licensing-england-and-wales-2011-12-tables>) and sampling carried out by the Home Office to determine what proportion of licensees incurred these fees.

80. It is important to note that we are assuming that businesses are assessing the decision on whether or not to apply for a premises and personal licence based on the costs and benefits over five years. If they were to look at the cost of a licence over a shorter period, the required annual profit to break even would be larger and the net benefits of the policy would increase³⁴. This is because the period over which businesses make this decision underlies our assumption about the benefits of possessing an alcohol licence, and the shorter the period over which these benefits are spread out, the greater the annual benefits are expected to be.
81. Based on the assumptions above on the number of potential beneficiaries, take up rates and potential profit, it is estimated that ancillary sellers will benefit from **£0.32-£0.86m** in increased profit (not included the cost of obtaining a CAN) in the first year. It is estimated that this will rise to **£0.91-£2.4m** from year three onwards as take-up increases.

Community Groups

82. Community groups who currently use TENs will also benefit from the option of using a less burdensome and costly licensing system. These groups stand to benefit from the lower costs of applying for a CAN, that is £2.80 (see para 57) as compared to £12 for a TEN (the current TEN form being seven pages long, whereas the CANs process will be much more streamlined). Additionally a CAN would cover a 36 month period and hence potentially a number of events, while a TEN only covers 'one-off' event periods of up to seven days at which alcohol is sold. We assume that community groups will use a CAN to cover from two (low) to four (high) events over the course of a year – **each** of which would previously have been covered by a TEN.
83. On the basis of this, community groups stand to benefit initially around **£0.1m-£0.7m** in saved fees (not including the cost of obtaining a CAN) in the first year, rising to **£0.3m-£2.1m annually** from year three onwards.

Non-monetised benefits of Option 2.

84. It is possible that some premises that have a premises licence currently may opt to take advantage of Option 2. However, we have no evidence to suggest how many licensed premises will find this worthwhile, given that the CAN may be more restrictive than their current premises licence.
85. If more ancillary sellers and community groups are encouraged to provide alcohol as part of a wider service, then consumers could significantly benefit from this service improvement. If costs are not passed on through sale price, this benefit would be equal to the value to the consumer of the alcohol provided. While the benefit per consumer would not be large, this would be replicated for a substantial number of consumers.

ONE-IN-TWO-OUT (OITO)

86. Option 2 has an impact on business and is therefore in scope for "One in Two Out".

COSTS (INs)

87. The estimated annual cost to business based on administrative costs of making applications and the annual fee to sell alcohol for ancillary sales is estimated at **£0.2m** on average per year (2010-11 prices). This option would generate an IN of around **£0.1m to £0.3m** per year, with a best estimate of **£0.2m** (2009 prices on an EANCB basis).

BENEFITS (OUTs)

88. Community groups are within scope of the Government's deregulatory "one in; two out" policy. The estimated benefit to business based on savings from using CANs and profit from alcohol sales is estimated at **£2.4m** on average per year (2010-11 prices). This option would generate an OUT of about **£0.9m to £3.5m** per year, with a best estimate of **£2.2m** (2009 prices on an EANCB basis).

NET EFFECT (OITO)

³⁴ See Annex B for a sensitivity analysis of assumptions

89. The net effect is estimated to be an OUT of **£2.0m** (2009 prices on an EANCB basis).

Risks of Option 2

90. There is a slight risk that accommodation providers who do not hold premises licences may sell alcohol under their CAN, or ostensibly under their CAN, in ways that undermine the licensing objectives, or are against the law in that they breach its terms. However, the fact that activities permitted under a CAN will be clearly defined will make this unlikely. In rare cases where problems emerge, a light touch process is available to revoke the CAN without a hearing. There is a risk that take-up and has been underestimated, and hence the potential cost savings/increased profit. There is also a risk that the likelihood of enforcement costs by the EHA, the police and LAs have been underestimated. This is the final IA prior to establishing the principles of the CAN in primary legislation. Details of the parameters and processes are provisional and subject to change. A further IA will be done for details to be included in the secondary legislation and this will provide the opportunity for further technical consultation with LAs and others on enforcement and other costs.
91. Separately, there is a risk that premises whose activities are inappropriate for a CAN may attempt to issue one. This could mean higher than anticipated costs to Licensing Authorities, and thus a higher fee, deterring those that do wish to use a CAN responsibly, given that the licensing fee must cover the costs of administration. We would work with licensing authorities to issue clear guidance to licensing authorities and applicants to avert this risk.

There is a modelling risk in that we have assumed that businesses focus on the cost of a licence spread over five years. If this is not the case, we may have significantly underestimated the profits for business. This may be true if the businesses affected, being in general smaller than the average business, face higher levels of uncertainty and so are primarily concerned with shorter-term costs and benefits.

92. The conditions of CANs mean that the potential volume of alcohol that could be sold is relatively low. However we have no way of knowing exactly how much CAN holders would sell and therefore how much profit they might make. But we believe that the approach described above to estimate the average profit that might result from owning a CAN is the best available, and that the resulting, relatively small estimate of annual profit, is realistic.
93. The take-up assumptions described in the appraisal section are based on a previous impact assessment of a related but different proposal. There is a risk that under the new CAN proposal take-up could be greater than modelled. In that scenario, the estimated OUT would also be greater than estimated.
94. The proposed lack of a hearing means that the method of redress by any CANs user aggrieved at being turned down at the process stage or having their CAN revoked will be administrative complaint via the LA's complaints procedure or the Local Government Ombudsman or ultimately via the Courts at judicial review (JR). There is the risk of costs of such complaints and JR attempts rising. Keeping the fee low and the process light-touch will mitigate this. Any ancillary seller or community group which is refused or loses its authorisation to operate under a CAN clearly has the option of seeking a premises licence or using the TENS regime instead.
95. There is a risk that Option 2 may lead to a small increase in the overall consumption of alcohol as it increases opportunities to sell it. Alcohol consumption is associated with crime, particularly violent crime, and ill health³⁵. There is therefore a risk that any increase in alcohol consumption brought about through Option 2 could lead to an increase in alcohol-related crime and health harms. However, given the lack of evidence on the typical consumption associated with CANs and hence the consumption effect of this proposal, it is not possible to quantify the potential harms associated with the proposal³⁶. The nature of community and ancillary events and this measure is such that we

³⁵ See impact assessments on minimum unit pricing and ban on multi-buy promotions for a summary of the evidence

³⁶ The SchARR model estimates, at a very detailed level, the impacts of the policy concerned on the *consumption* levels for different types of alcohol consumers, and then goes on to use these figures to estimate the eventual impact on factors such as crime and health. Because of the level of detail in which the analysis is done, it would not be possible to input a consumption effect directly, even if such an estimate existed.

believe it would not result in high levels of harmful consumption. However, the proposed safeguards and restrictions at the point of sale will mitigate these risks. These include tight restrictions on amounts of alcohol that can be provided, how alcohol is displayed and that the authorisation may only be used in low risk environments and can be rejected by licensing authorities, the police or environmental health authorities on grounds that it would undermine the licensing objectives. A CAN that has already taken effect may also be revoked on these grounds either directly by the licensing authority or following relevant representations by the police or environmental health. Decisions on CANs are also subject to cumulative impact policies. Hence the proposal is not expected to result in high levels of harmful consumption and associated health and crime harms

Summary and Recommendations

The table below outlines the costs and benefits of the proposed changes.

Option 2	Costs	Benefits
	£0.9m (PV over 10 years) Cost to 'Ancillary sellers' for licence application and fee.	£12.7m (PV over 10 years) Profits to "Ancillary sellers" from alcohol sales
	£1.1m (PV over 10 years) cost to community groups of licence application and fee.	£8.9m (PV over 10 years) fees savings to community groups no longer required to apply for TENS.
	Possible increase in crime and health harms. (not quantified)	Benefits to consumers. (not quantified)

96. **Enforcement:** Monitoring and enforcement of the Licensing Act 2003 is conducted by licensing authorities, the police, and, in some cases, by Trading Standards. These proposals may result in a slight increase in the number of premises providing alcohol lawfully. The circumstances of the 'sales', and the amounts sold, will be strictly limited. Before any additional authorisation is granted, the licensing authority will continue to conduct a test in each case, through the application process. See paragraph 86 above. It is therefore expected that enforcement activity will be extremely limited.
97. **Implementation:** Both measures would require primary legislation; with details (such as forms) set out in secondary legislation.

ANNEX A: TEMPORARY EVENTS NOTICES (TENS)

- TENS allow the user to carry out licensable activities on an one-off occasional basis or to extend hours of opening beyond usual times for an existing premise licence or club premises certificate.
- The TENS fee of £21 for a TEN must be received by the licensing authority at the same time the notice is given. The notice must be given at least 9 working days before the event (or 5 days in the case of “late TENS”).
- The TEN is also sent to the police and environmental health authority (EHA) both of which have the opportunity to send an objection notice to the LA.
- The LA must hold a hearing to consider whether to block the TEN (by issuing a counter notice) if such an objection is received. In the case of late TENS, there is no right to hearing, if an objection from either the police or the EHA, the event does not go ahead.
- Late TENS were introduced to make things easier for groups to rearrange events at short notice etc.
- Various limitations apply to all TENS. For example, the event or events held under a single TEN must not exceed 168 consecutive hours; there must be a break of at least 24 hours between periods covered by TENS; and no more than 500 people can be in attendance at the premises at any one time. Currently, there is a maximum of 12 TENS permitted per year on a single premises, up to a total maximum duration of 21 days.

ANNEX B: SENSITIVITY ANALYSIS

Table F.1: Assumptions used in sensitivity analysis (for sources see evidence base above)

	<i>Best estimate</i>	<i>Lower bound</i>	<i>Upper bound</i>
Serviced accommodation take-up	7.5% per year for three years	6% per year for three years	9% per year for three years
Non-serviced accommodation take-up	4.5% per year for three years	3% per year for three years	6% per year for three years
Cost of applying for personal and premise licence	£1,320	£1,026	£1,614
Time horizon used by businesses in licence application decision	5 years	10 years	2 years
CAN fee	£35	£50	£20
Ancillary seller noncompliance	5%	10%	0%

Table F.1 only includes those assumptions that vary between the scenarios considered. ‘Lower bound’ and ‘upper bound’ refer to the estimated impact of the policy, not the values of the assumptions.

Table F.2 demonstrates the costs and benefits associated with each estimated scenario.

Table F.2: Sensitivity analysis results, average annual figures

	<i>Best estimate</i>	<i>Lower bound</i>	<i>Upper bound</i>
COSTS (£m)	0.24	0.28	0.16
BENEFITS (£m)	2.37	1.47	3.69
NET BENEFIT³⁷ (£m)	2.14	1.19	3.54
EANCB (£m, 2009 prices)	-2.01	-1.20	-3.14

- The net OUT is highly sensitive to the time horizon over which it is assumed that businesses assess whether or not to buy a personal and premises licence under the current regime. Holding all other assumptions constant, the net OUT (EANCB, 2009 prices) varies from -£1.59m under a ten year time horizon to -£3.17m under a two year time horizon. As such, the most conservative estimate reduces costs to business by only £0.42m (21%) less than the central estimate. By contrast, the least conservative estimate reduces costs to business by £1.17m (59%) more than the central estimate. Our central estimate is therefore particularly conservative with regard to this assumption.
- Despite the uncertainty regarding the current rate of noncompliance among ancillary sellers, the net OUT is not particularly sensitive to the assumption used for this rate. Holding all other assumptions constant, the net OUT (EANCB, 2009 prices) varies from -£1.95m under the assumption of 10% noncompliance to -£2.07m under the assumption of 0% noncompliance.

³⁷ Negative figures indicate net costs rather than the net benefits, that is the costs are greater than the benefits.

There is therefore a difference in reduction of costs to business of £0.12m between our most and least conservative estimates, which is equivalent to under 6% of the total annual reduction of costs to business.

- The CAN fee will be set to cover costs, but these costs are unknown. It assumed that the fee will fall somewhere between the cost of a TEN licence (£21) and a cap of £50. The net OUT is not particularly sensitive to the fee. Holding all other assumptions constant, the net OUT (EANCB, 2009 prices) varies from -£1.99m under a £50 fee to -£2.03m with a £20 fee. There is therefore a difference in reduction of costs to business of £0.04m between our most and least conservative estimates, which is equivalent to 2% of the total annual reduction of costs to business.

ANNEX C: COST ASSUMPTIONS

Table Annex C.1: Cost Assumptions Used in the Analysis

Wage Assumptions			Source
Ave wage of premises manager	£	11.43	ASHE 2012 - mean publicans and managers of licensed premises
Ave wage of police officer (sgt or below)	£	33.59	HO estimates of police unit costs (Hannah Mills paper)
Ave wage of licensing officer	£	11.41	ASHE 2012 - median wage of local government officer
Ave wage of licensing officer plus on costs	£	13.28	
On-cost adjustment		16.40%	BIS guidance based on http://epp.eurostat.ec.europa.eu/portal/page/portal/labour_market/labour_costs/main_tables
Time required to report loss (hours)		0.25	anecdotal evidence from police forces
<u>Cost of a personal licence</u>			
Personal licence application fee	£	37.00	personal licences IA
Time to fill in application	£	11.43	personal licences IA
DBS	£	25.00	personal licences IA
Qualification	£	144.00	£120 + VAT
Time on course	£	91.44	8 hour training day
Theft, loss etc of personal licence	£	0.20	£10.50 fee incurred by 1.9% of licensees (based on sampling carried out by alcohol team)
Total cost of personal licence application	£	308.87	
<u>Cost of a premises licence</u>			
<i>Simple License</i>			
Premises licence application fee	£	235.00	ASN IA (BELOW)
Time to fill in application (including advertising)	£	483.00	ASN IA (BELOW)
Total cost of premises application	£	718.00	ASN IA (BELOW)
Premises licence annual fee	£	193.00	ASN IA (BELOW)
Application to vary licence to specify individual as premises supervisor	£	5.75	£23 fee incurred by 25% of licensees (based on sampling carried out by alcohol team)
Application to transfer a premise licence	£	1.84	£23 fee incurred by 8% of licensees (based on sampling carried out by alcohol team)
Minor variation to licence or certificate	£	2.84	£89 fee incurred by 3% of licensees (based on ONS Alcohol and Late Night Refreshment Licensing England and Wales 2011/12)
Total cost of premises licence (NPV over 10 years)	£	2,267.18	
Average annual cost of premises licence (NPV over 10 years)	£	226.72	
<i>Complicated premises licence</i>			
Premises licence application fee	£	235.00	
Time to fill in application (including advertising)	£	1,071.00	ASN IA (BELOW)
Total cost of premises application	£	1,306.00	ASN IA (BELOW)
Premises licence annual fee	£	193.00	ASN IA (BELOW)
Application to vary licence to specify individual as premises supervisor	£	5.75	£23 fee incurred by 25% of licensees (based on sampling carried out by alcohol team)
Application to transfer a premise licence	£	1.84	£23 fee incurred by 8% of licensees (based on sampling carried out by alcohol team)
Minor variation to licence or certificate	£	2.84	£89 fee incurred by 3% of licensees (based on ONS Alcohol and Late Night Refreshment Licensing England and Wales 2011/12)
Total cost of premises licence (NPV over 10 years)	£	2,855.18	
Average annual cost of premises licence (NPV over 10 years)	£	285.52	
<u>Profit Assumptions</u>			
		Lower	Upper
Ancillary fee	£	20.00	£ 50.00
Process Cost	£	2.78	£ 2.78
Profit - 5 years	£	170.06	£ 228.86
			Assumed form takes 10mins to fill in
			0.5*(premises licence cost + personal licence cost - CAN cost)