



The New Zealand Television Broadcasters' Council
Submission in Response to
ALCOHOL IN OUR LIVES
An Issues Paper on the Reform of New Zealand's Liquor Laws

Submitted by
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A Background to Submission

The New Zealand Television Broadcasters' Council (TBC) represents the common interests of its members, the majority of the national Free to Air (FTA) broadcasters. The members of the TBC are TVNZ, MediaWorks TV and Maori Television (MTS).

We applaud and support the work of the Law Commission on its work thus far. There is no question that alcohol is the cause of many of society's problems and change is needed to minimise the problems while not unduly infringing the rights of the vast majority of people who use alcohol responsibly.

B Responses to Questions

Although the TBC's direct interests lie in the area of marketing of alcohol, we are also responsible members of society with much broader interests. Our members all run significant newsrooms that report on the events of the day, as well as producing in-depth current affairs programmes. All of those newsrooms must deal with the disastrous results of alcohol abuse every time they report on an alcohol fuelled car crash, or violence and other crime caused at least in part by alcohol. Many of our channels run alcohol moderation messages at no charge, recognising the public good that can come from reduction in alcohol abuse. We subscribe to a self regulatory regime of limitation on alcohol advertising, both in content and placement, and we are absolutely vigilant in ensuring breaches do not occur.

However, the mandate of the TBC is to comment and inform on the non-competing interests of our members. For that reason we will not comment directly on the questions in the issues paper, but we stand ready to support any actions the government should choose to take.

C Advertising

Of course television broadcasters are an interested party when it comes to the advertising of alcohol. We are not interested to the exclusion of common sense and the common good and we do want to see the laws related to alcohol changed so as to improve the general quality of life and safety for everyone. If further limitation on television advertising would accomplish this, we would not submit to the contrary.

i. Current Situation

Alcohol advertising and promotion in all media is self regulated by the Advertising Standards Authority. Complaints are considered by the Advertising Standards Complaints Board and the majority of membership, including the chair, on that board is from the public.

In addition, the Association of New Zealand Advertisers operates the Liquor Advertising Pre-vetting System (LAPS) and broadcasters will not accept liquor advertisements unless they have LAPS approval. Television goes a step further and operates the Commercial Approvals Bureau, which pre-vets all television ads and assigns appropriate time categories in which the ads may run.

The code for advertising of alcohol has been reviewed several times by an independent panel on which ALAC, the BSA and the Ministry of Health are all represented. Each review involved significant public consultation and reflects current societal thinking around alcohol advertising. The three reviews held in the past 15 years have been chaired by Judith Potter (now Justice Potter), Sir Ian Barker and Sir Michael Hardie Boys. The code is attached to this submission as Appendix A. It includes the following restrictions:

- No liquor advertising on television prior to 8:30pm
- Liquor advertisements shall be directed to adult audiences, and shall not be directed at minors nor have strong or evident appeal to minors in particular.

The Free to Air Television Code also contains restrictions on alcohol promotion within television programmes to ensure the responsible promotion of alcohol and that section of the Code is attached as Appendix B.

A new code for Naming, Labelling, Packaging and Promotion of Liquor has been finalised and came into effect on 1 October 2009. This code provides rules and guidelines for all kinds of promotion, such as point of sale promotions, sponsorships, branded merchandise, competitions, advergames, product displays and sampling. All media are included, and new media such as websites, texts, email and User Generated Content on websites and email are specifically included. The code and complaints are administered through the ASA in a similar manner to the other codes, but with a separate complaints board with the majority of members not being connected with the advertising or liquor industries.

All costs associated with the ASA, code development and enforcement are borne by the members of the ASA without any form of government funding.

ii. *Alcohol Bans and Limitations*

Ad bans on alcohol do not affect consumption. That is a plain and simple truth that has been proven time and time again in various pieces of research. A list of nineteen studies that confirm the ineffectiveness of limitations or bans is attached as Appendix C. One of the longest bans was in the Canadian province of Saskatchewan, where this author lived until adulthood. As a young university student, I can confirm that the fact that alcohol was not advertised had absolutely no effect on the alcohol consumption levels of me or my friends. The results of the lifting of the ban was to confirm my own belief; alcohol bans have absolutely no negative effect on consumption, but advertising does have an effect on brand choice, which is precisely the intent. A comparison of ad expenditure and consumption in several European countries showed no appreciable effect of either lower ad spending or total prohibition of advertising.

D Conclusion

Broadcasters recognise that there are issues of alcohol abuse in New Zealand and that the country needs to develop strategies to deal with these issues. We remain ready and willing to assist in any way we can with solutions that are practical, meaningful and can be shown to have the desired effect on the problem. It is clear that advertising on television is not causing or exacerbating the problems with alcohol abuse. We know that television is often seen as an easy target due to its public visibility, but to bring financial harm on the television industry with no significant benefit in other areas is not a sensible solution.

We look forward to further engagement during this process.

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APPENDIX A
Code for Advertising Liquor

1 September 2003

All advertising shall adhere to the Principles and Guidelines set out in this Code.

The Code is designed to ensure that liquor advertising will be conducted in a manner which neither conflicts with nor detracts from the need for responsibility and moderation in liquor merchandising and consumption, and which does not encourage consumption by minors.

In interpreting the Code emphasis will be placed on compliance both with the Principles and the spirit and intention of the Code. The Guidelines are examples, by no means exhaustive, of how the Principles are to be interpreted and applied. Thus many are mandatory requirements. Notwithstanding the foregoing, the paramount consideration is the spirit and intention of the Code. Accordingly, upon complaint, the Advertising Standards Complaints Board is vested with a discretion to ensure a commonsense outcome.

Approval by the Liquor Advertising Pre-vetting System (LAPS) is strongly recommended.

Radio and television broadcasters annually provide free airtime to government organisations for the broadcast of liquor moderation messages and/or the no alcohol option as a result of commitments made by broadcasters when alcohol brand advertising was introduced in 1992. Such messages can be broadcast at any time.

DEFINITIONS

"Heroes and/or heroines of the young" means individuals or groups of people who have achieved particular celebrity status with minors and includes cartoon and other imaginative characters.

"Light (or lite) alcohol" means liquor containing a maximum of 2.5% alcohol by volume.

"Liquor advertisement" means an advertisement, by whatever means it is disseminated, that promotes liquor by product, brand or outlet, but does not include a sponsorship credit or a sponsorship advertisement or an advertisement in which reference to or the depiction of liquor or liquor packaging or a liquor outlet is incidental to its purpose.

"Liquor advertiser" means an advertiser which markets or sells liquor and uses its name or any identifying feature to promote the sale of liquor in any way.

"Liquor packaging" means a recognisable representation of a liquor bottle, can, cask, pack or other container.

"Minors" are people who are under the age at which they are legally entitled to purchase liquor.

"Sponsorship credit" means an acknowledgment of a liquor advertiser's sponsorship.

"Sponsorship advertisement" means an advertisement which clearly indicates that the advertiser is sponsoring a person, competition, activity or event.

Principle 1 - Liquor advertisements shall neither conflict with nor detract from the need for responsibility and moderation in liquor consumption.

Guidelines

1(a) Liquor advertisements shall not emphasise a product's alcoholic strength, except where the product is a light (or lite) alcohol product.

1(b) Liquor advertisements shall not glamorise liquor or association with it, or show or encourage the immoderate consumption of liquor.

Principle 2 - Liquor advertisements shall observe a high standard of social responsibility.

Guidelines

2(a) No product shall be advertised that does not comply with the following requirements taken from the National Guidelines on the Naming, Packaging and Merchandising of Alcoholic Beverages, published by the Alcohol Advisory Council of New Zealand (June 2000).

Labels, graphics, artwork, brand names, packaging, containers and other marketing materials and techniques shall observe the law, and shall not:

(i) have the appearance of special appeal to minors by way of designs, motifs, cartoon characters or other devices that predominantly appeal to minors.

(ii) lead to confusion with confectionery or soft drinks.

(iii) lead to confusion as to the alcoholic nature and/or alcoholic strength of the product.

(iv) draw any association with drug culture, narcotics or illegal drugs.

(v) mimic containers or shapes (e.g. hypodermic needles and syringes, explosive devices, etc) that are predominantly associated with anti-social or dangerous behaviour.

2(b) Advertisements shall not depict or imply offensive, aggressive or irresponsible behaviour or unduly masculine themes or portray unrealistic outcomes.

2(c) While advertisements may depict the consumption of liquor as incidental to a friendly and happy social environment, they shall not suggest that liquor will create a significant or desirable change in mood or social environment, or that liquor contributes to or is a reward for success or achievement of any kind.

2(d) Advertisements shall not be sexually provocative or suggestive or suggest any link between liquor and sexual attraction or performance.

Principle 3

1. Liquor advertisements shall not depict or imply the consumption of liquor in potentially hazardous situations or include any unsafe practices.

2. Liquor advertisements shall not offer motor vehicles or boats as prizes in any competition.

Notes

• Principle 3 (a) applies to advertisements depicting or implying the consumption of liquor by people in motor vehicles or boats, or while participating in swimming or other water sports, or other activities where the consumption of liquor by those participating is potentially hazardous.

• It is permissible to depict the consumption of liquor after the activity has ended, provided that no unsafe practice is involved.

Principle 4

1. Liquor advertisements shall be directed to adult audiences. Liquor advertisements shall not be directed at minors nor have strong or evident appeal to minors in particular.

Note: Particular care is needed in advertising products such as RTDs which may appeal to the younger section of the adult market.

2. Liquor advertisements shall not be shown on television between 6.00 am and 8.30 pm

3. Liquor advertisements shall not use or refer to identifiable heroes or heroines of the young.

4. *Broadcasters must take care to avoid the impression that liquor promotion is dominating the viewing or listening period when broadcasting liquor advertisements, including liquor sponsorship advertisements and/or liquor sponsorship credits taking into account the context of the programme.*

Guidelines

- 4(a) *Anyone visually prominent in a liquor advertisement depicting liquor being consumed shall be and shall appear to be at least 25 years of age with their behaviour and appearance clearly appropriate for people of that age or older.*
- 4(b) *Minors may appear in advertisements only in situations where they would naturally be found, for example in a family barbecue, provided that there is no direct or implied suggestion that they will serve or consume liquor.*
- 4(c) *Television liquor advertising shall not exceed six minutes per hour, and there shall be no more than two advertisements for liquor in a single commercial break. (Effective from 1st December 2004.)*

Principle 5 - Sponsorship advertisements and sponsorship credits shall clearly and primarily promote the sponsored activity, team or individual. The sponsor, the sponsorship and items incidental to them, may be featured only in a subordinate manner.

Guidelines

Sponsorship advertisements and sponsorship credits:

- 5(a) *Shall not contain a sales message.*
- 5(b) *Shall not show a product or product packaging.*
- 5(c) *Shall not imitate or use any parts of product advertisements from any media.*
- 5(d) *Shall not portray consumption of liquor.*
- 5(e) *Shall only briefly and in a subordinate way mention or portray the sponsors name and/or brand name and/or logo orally and/or visually.*
- 5(f) *Sponsorship advertisements and sponsorship credits may be broadcast at any time except during programmes intended particularly for minors.*

Principle 6 - Liquor advertisements shall not by any means, directly or by innuendo, contain any misleading description, claim or comparison about the product advertised, or about any other product, or suggest some special quality which cannot be sustained.

APPENDIX B

Extract from the Free-to-Air Code of Broadcasting Practice

Standard 11 Liquor

Broadcasters should observe restrictions on the promotion of liquor appropriate to the programme genre being broadcast. Liquor Promotion should be socially responsible and must not encourage consumption by people who are under the legal age to purchase liquor.

Definition

Liquor Promotion comprises:

- *promotion of a liquor product, brand or outlet ('promotion')*
- *liquor sponsorship of a programme ('sponsorship')*
- *advocacy of liquor consumption ('advocacy')*

Guidelines

- 11a Liquor Promotion must not appear in programmes specifically directed at children.*
- 11b Broadcasters must ensure that Liquor Promotion does not dominate programmes.*
- 11c Broadcasters must avoid advocacy of excessive liquor consumption.*
- 11d Broadcasters are not required to exclude promotion from coverage of an actual event or situation being broadcast where promotion is a normal feature of the event or situation but must take guideline 11b into account.*
- 11e Sponsorship of a programme must be confined to the brand, name or logo and must not include a sponsor's sales message.*
- *When scheduling liquor-sponsored programmes, broadcasters will also take into account the requirements of principle 4.4 and Guideline 4(c) of the Advertising Standards Authority's Code for Advertising Liquor (which requires broadcasters to take care to avoid the impression that liquor promotion is dominating the viewing period).*
 - *Promos for a liquor-sponsored programme shall clearly and primarily promote the programme. The sponsor and sponsorship may be featured only in a subordinate manner, be confined to the brand, name or logo and must not include a sponsor's sales message.*

APPENDIX C

Schedule of Research on Case Studies On the Effectiveness of Alcohol Ad Bans 1976 - 2006

1. Examined 14-month ban of all alcohol advertising in all media in British Columbia in 1971 and compared consumption with Ontario, which did not have a ban. The authors found that the ban had no effect and concluded, "...both the yearly and monthly analysis of beer, wine or liquor consumption show no substantial effect of the ban."

Smart, R.G., Cutler, R.E., 1976. The alcohol advertising ban in British Columbia: Problems and effects on beverage consumption. *British Journal of Addiction* 71, 13-21.

2. Examined the impact on consumption of an ad ban of all beer advertising in the print and electronic media imposed in Manitoba in 1974. A comparison from 1970 - 1978 was made with Alberta, which did not have a ban. The study found that the ban had no impact on beer consumption compared with Alberta and consumption actually increased after the imposition of the ban.

Ogborne, A.C., Smart, R.G., 1980. Will restrictions on alcohol advertising reduce alcohol consumption? *British Journal of Addiction* 75, 293-296.

3. Examined 51 US states and classified them into 3 groups regarding restrictions on the content and placement of alcohol ads in newspapers and magazines. The groups were - least restrictive, moderately restrictive and most restrictive. The study found that "advertising restrictions were unrelated to per capita beer, wine or spirit consumption, to total per capita consumption or to alcoholism rate." The authors concluded, "Such restrictions should be given a low priority among the possible solutions to problems of restraining per capita alcohol consumption."

Ogborne, A.C., Smart, R.G., 1980. Will restrictions on alcohol advertising reduce alcohol consumption? *British Journal of Addiction* 75, 293-296.

4. Examined the effect of ad bans using a cross-section of 35 US states. Concluded "...a prohibition on advertising for alcoholic beverages leads not to a general reduction in alcoholic beverage consumption but rather a shift from beer consumption to spirits consumption".

Schweitzer, S.O., Intriligator, M.D., Salehi, H., 1983. Alcoholism: An econometric model of its causes, its effect and its control, in: Grant, M., Plant, M., Williams, A. (Eds.), *Economics and Alcohol: Consumption and Controls*. Harwood, New York, pp. 107-127.

5. Examined per capita consumption of spirits over a 25-year period using a cross-section of 48 US states and the various ad bans for billboards, exterior signs and price advertising. Concluded that ad bans "...have been almost totally ineffective as a deterrent on alcohol consumption . . . [and] the most anomalous result comes with restrictions on billboard advertising, where results showed a consistent and fairly large effect in the wrong direction".

Hoadley, J.F., Fuchs, B.C., Holder, H.D., 1984. The effect of alcohol beverage restrictions on consumption: A 25-year longitudinal analysis. *American Journal of Drug and Alcohol Abuse* 10, 375-401.

6. Examined a cross-section of 50 US states from 1974-78 and the effect of ad bans for billboards, print price and billboard price on spirits and beer consumption. Found that allowing billboard advertising decreased spirits consumption, allowing price advertising increased spirits consumption, no effect on beer consumption but allowing price ads increased consumption slightly. The authors concluded that "... control laws affecting price have the greatest impact on consumption ... [but] the influence of control measures is small relative to that of socio demographic and economic variables that affect consumers' overall attitudes toward drinking"

Ornstein, S.O., Hanssens, D.M., 1985. Alcohol control laws and the consumption of distilled spirits and beer. *Journal of Consumer Research* 12, 200-213.

7. Examined the relationships between alcohol consumption, ad bans and road fatalities in 48 US states for 1976-1979. Found that ad bans for billboards and periodicals had insignificant effects on demand and that ad price bans had a negative effect on consumption. Concluded that "... The direct effects of regulation on alcohol sales are relatively small. Regulatory restrictions have their largest effect via their impact on the number of outlets"

Wilkinson, J.T., 1985. *Alcohol and Accidents: An Economic Approach to Drunken Driving*. Unpublished Ph.D. dissertation, Department of Economics, Vanderbilt University. Wilkinson, J.T., 1987. The effects of regulation on the demand for alcohol. Unpublished paper, Department of Economics, University of Missouri.

8. Examined the effect of ad bans on per capita consumption of beer, wine and spirits in a cross-section of 48 US states. Found that ad bans were not a significant determinate of consumption but that prices, income, tourism, number of outlets and legal purchase age were significant variables. Concluded, "...there is no effect on consumption of advertising bans."

Nelson, J.P., 1990a. State monopolies and alcoholic beverage consumption. *Journal of Regulatory Economics* 2, 83-98.

Nelson, J.P., 1990b. Effect of regulation on alcoholic beverage consumption: Regression diagnostics and influential data, in: Watson, R.R. (Ed.), *Drug and Alcohol Abuse Reviews: Prevention*. Humana Press, Clifton, NJ, pp. 223-243.

9. Examined the effect of the termination in 1983 of a 58-year-old ad ban of all alcohol in all media in Saskatchewan. The ban continued for spirits ads on radio and television. The study found that the termination resulted in increased beer sales, reduced spirits sales and no effect on wine. There was no effect on total alcohol consumption. The authors concluded, "This research found evidence of an impact of the change in legislation regarding alcohol advertising in terms of a substitution effect of beer sales for spirits sales. Advertising does not, however, affect total consumption"

Makowsky, C.R., Whitehead, P.C., 1991. Advertising and alcohol sales: A legal impact study. *Journal of Studies on Alcohol* 52, 555-567.

10. Examined ad bans of broadcast alcohol advertising in OECD countries. The study found that a ban on spirits advertising resulted in higher beer consumption and a ban of all advertising resulted in higher spirits consumption. Wine consumption was unaffected by a total ban and negatively affected by a spirits ban. Bans tend to lead to beverage substitution. Concluded that the "...the relationships between advertising bans and consumption of specific types of alcoholic beverages are largely inconsistent with the notion that bans reduce consumption".

Young, D.J., 1993. Alcohol advertising bans and alcohol abuse: Comment. *Journal of Health Economics* 12, 213-228.

11. Examined alcohol ad expenditure and consumption in France, Germany, Netherlands, Sweden and UK from 1970 to 1990. Sweden banned all alcohol advertising in 1979. Found that consumption reduced in all countries during the period and the four countries without bans were not appreciably different from Sweden. The authors concluded "... social forces other than prices and income were bringing about a strong reduction in demand for alcoholic beverages, and advertising did nothing to ward off this trend towards reduced consumption"

Calfee, J.E., Scheraga, C., 1994. The influence of advertising on alcohol consumption: A literature review and an econometric analysis of four European nations. *International Journal of Advertising* 13, 287-310.

12. Examined the effect of price ad bans in 16 US states between 1982-1987 on the malt beverages market. The study found "Our empirical results suggest that local price advertising plays an important role in the competitive process. Where all sellers are prohibited from conveying price information to consumers in an efficient fashion, larger firms tend to gain market share at the expense of smaller competitors, resulting in an increase in market concentration."

Sass, T.R., Saurman, D.S., 1995. Advertising restrictions and concentration: the case of malt beverages. *The Review of Economics and Statistics*, 77, 1, 66-81

13. This US study examined relationship between consumption and domestic violence toward children with different variables including billboard bans, window display bans and price ad bans. Found that there were no measurable effects of advertising on violence, including billboard bans and window display bans. It concludes, "Finally, laws restricting advertising of beer are shown to be ineffective in reducing violence."

Markowitz, S., Grossman, M., 1998. Alcohol regulation and domestic violence towards children. *Contemporary Economic Policy* 16, 309-320.

14. Examined broadcast ad bans in 17 OECD countries. Found that bans on the advertising of spirits lead to increased alcohol consumption and higher motor vehicle fatalities. Wider bans of additional media and beverages were not consistently related to consumption or abuse. Price was found to be an important determinant of consumption. Concluded that broadcast bans can lead to price reductions due to reduced product differentiation and lower costs, and might therefore increase price competition among producers of more homogeneous goods. Hence, banning advertising could have the perverse effect of increasing alcohol consumption.

Nelson, J.P., Young, D.J., 2001. Do advertising bans work? An international comparison. *International Journal of Advertising* 20, 270-294.

15. Examined the literature concerning alcohol ad bans. Found that there was no statistically or material effect of alcohol ad bans, including selective bans of outdoor media and comprehensive bans of broadcast media and other print media. Concluded, "At the beverage level, the results are mixed and suggest that substitution among beverages is a possible effect of a ban. However, the null hypothesis that advertising bans reduce alcohol consumption (or abuse) must be rejected. Conceivably, a total ban of all alcohol advertising and promotion might have some effect on behavior, although anecdotal evidence for the Soviet Union and the US Prohibition-era argue against even this extreme result."

Nelson J.P. 2001, *Alcohol Advertising and Advertising bans: A Survey of Research Methods, Results, and Policy Implications*. Chapter 11, *Advances in Applied Microeconomics, Volume 10: Advertising and Differentiated Products 2001*

16. Examined restrictive alcohol control policies, including ad bans, in 45 US states for the period 1982-1997. Found "A restrictive law that applies to only one beverage (or one form of advertising) can result in substitution toward other beverages (or other forms of advertising). Allowing for substitution means that the net effect on total alcohol consumption is uncertain, and must be ascertained empirically. The study found that monopoly control of retail sales of spirits reduces consumption of spirits and increases consumption of wine. The effect on beer is positive, but not statistically significant." Concluded that billboard bans "...increase the consumption of spirits and wine, and reduce the demand for beer. The net effect on total alcohol demand is positive prior to 1989, and zero thereafter." With regard to price ad bans the study concluded "The empirical findings for restrictive alcohol laws indicate that, first, a ban of price advertising reduces consumption of spirits and wine, and increases beer consumption. The net effect of price bans on total alcohol is very small in magnitude."

Nelson J.P., 2003, Advertising bans, Monopoly, and Alcohol Demand: testing for Substitution Effects using State Panel Data. *Review of Industrial Organization*, 22, 1-25

17. A meta-analysis of empirical studies that examine the effect of actual advertising bans. Broadcast ad bans were found to be ineffective - "In summary, the cumulative evidence from cross-national studies indicates that broadcast advertising bans do not reduce consumption. The meta-analysis of cross-national bans of broadcast advertising provides point estimates of about -1% for either a partial or a total ban. The effects are small in magnitude, and neither cumulative estimate is significantly different from zero." Billboard ad bans were also ineffective and slightly increased consumption. "A state billboard ban increased total alcohol consumption by about 3.8%." However it also "increases spirits consumption by about 12.5%." It comments, "This result is highly significant and generally contrary to expectations."

Nelson, J.P., Young D. J., 2003, Meta-Analysis of Alcohol bans: Cumulative Econometric Estimates of Regulatory Effects. Unpublished, ----- www.montana.edu/econ/djyoung/papers/meta_alcohol5.pdf

18. A literature review of studies that examine actual case studies of alcohol ad bans. Seven econometric studies estimate the relationship between billboard bans and alcohol consumption in the US. "None of the studies obtained a statistically significant reduction in total alcohol consumption due to bans of billboards. In several studies, billboard bans increased spirits consumption significantly." There were four studies on broadcast advertising bans. "The results indicated that bans of broadcast advertising had no effect on alcohol consumption relative to countries that did not ban broadcast advertising."

Nelson, J.P., 2004, Advertising Bans in the United States. *EH.Net Encyclopaedia*, <http://eh.net/encyclopedia/article/Nelson.AdBans>

19. Examined ad bans in 17 OECD countries from 1975-2000. The study found that alcohol ad bans do not reduce market demand for alcohol. Over 40-year period have been reasonably stable but there have been dramatic changes in consumption levels and beverage shares. There has been a general decline in consumption over the period but the decline has been greater in countries with "fewer restrictions on alcohol advertising, marketing and distribution." Concluded, "Finally, it should be noted that bans of advertising have existed for many years in some countries, and vary across countries. Many individuals begin drinking alcohol at an early age. If advertising influences this decision, it is difficult to see why this behavior is not reflected in the empirical results for long-standing advertising bans."

Nelson J.P., 2006, Alcohol Advertising Bans, Consumption, and Control Policies in Seventeen OECD Countries. 1975-2000, *Social Science Research Network*, http://papers.ssrn.com/sol3/papers.cfm?abstract_id=942647