

Building a strategy to combat illicit trade in Kenya

Alcoholic Drinks

Report compiled by Euromonitor International for Alcoholic Beverages Association of Kenya (ABAK)

June 2023

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The data included in this report is accurate according to Euromonitor International's market research database, at time of publication: June 2023

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Introduction

Research Objectives

The Alcoholic Beverages Association of Kenya (ABAK) with its members would like to build knowledge and understand the drivers of the illicit alcoholic drinks trade, its shape, its size and impact on government revenue in Kenya.

To this end, what effective measures/strategies are required to tackle the issues to create longer-term solutions. ABAK wishes to help government to understand the size of the problem, as well as identify ways to combat this issue.

The project objectives include:

- Estimate the market volume, value, and fiscal loss attributed to illicit alcohol sales by sub-category.
- Segment the illicit alcohol sales by type of illicit activity.
- Identify and evaluate key hotspots of illicit alcohol activity across sub-categories and product brands.
- Understand the dynamics of illicit; trading, products, purpose, pricing and distribution, etc.
- Qualify the trends and drivers related to the illicit alcohol market.
- Identify consumer perception of illicit activity and government actions.
- Explore the current extent of knowledge of illicit alcohol within government.
- Develop and outline solutions that could help combat the trade of illicit alcohol.



Research methodology

Desk Research

1) In-house data analysis

Legal alcoholic drinks data alignment.
Legal market data and trends.
Sizing of the illicit market.
Estimation of fiscal loss.

2) Secondary research

Official stats about production, imports, exports,
seized illicit products and per capita consumption.
Press articles, current tax structure and
regulations, etc.

3) In-depth trade interviews

15 in total

Regulatory bodies, industry players, trade
associations, supply chain actors, government
agencies, etc.

4) Consumer survey

n=1,009

Understanding of perception of illicit alcohol,
channels where consumers believe these
products are sold, perceptions of government
actions, etc.

5) Informal store visits

40 store visit observations

Observation exercise: prevalence of products,
selling prices, key brands and product types,
packaging, label information, selling conditions,
pulse interviews with staff etc.

In-Country Research

Kenya



Source: Image from Britannica.com

Alcohol category definitions

Category	Definition
Licit Alcohol	Alcoholic drinks that are legally tax compliant in terms of paying the correct excise and other duties as required by the country in which the beverages are sold.
Illicit Alcohol	The non-payment of relevant excise and other duties to be fully tax compliant. Illicit alcohol can also lack other official requirements within a specific market. Some of the most important requirements that may be lacking include necessary health permits, and compliance with the local laws and norms applicable to the alcoholic drinks production process, including ingredients.
Informal Alcohol	Alcohol sold through informal channels mainly via premises which are unlicensed, unregulated (on-/off-trade) and with fewer amenities, primarily targeted towards lower-income and unemployed patrons in both urban and rural regions. Examples include open market stalls, kiosks, bars, and dens/taverns. In emerging markets, the informal distribution segment is very significant across categories; this is therefore a major focus of this study. Within informal distribution, both licit and illicit alcoholic drinks can be sold; this study will analyse only the distribution of illicit alcohol.
Spirits	This is the aggregation of whisky, brandy and cognac, white spirits, rum, tequila, liqueurs and other spirits.
Beer	An alcoholic drink usually brewed from malt, sugar, hops and water and fermented with yeast. Some beers are made by fermenting a cereal, especially barley, and therefore not flavoured by hops. Alcohol content for beer is varied – anything up to and over 14% ABV (alcohol by volume), although 3.5% to 5% is most common.
Wine	This is the aggregation of still and sparkling light grape wines, fortified wine and vermouth and non-grape wine. In terms of alcohol content, light wine usually falls into the 8-14% ABV bracket while fortified wine ranges from 14% to 23% ABV. Low-alcohol and non-alcoholic wine is also included.

Abbreviations: HL – Hectolitre, LAE – Litres of alcohol equivalent

Category definitions

Types of illicit alcohol

Illicit Category	Definition
Counterfeit and Illicit Brands	Fraudulent imitations of legitimate branded products, including refilling, falsification, and tampering. These beverages infringe the intellectual property rights of legitimate producers.
Contraband/Smuggling	Alcohol with original branding that has been illegally imported/smuggled into a jurisdiction and sold, evading tariffs/customs. Includes beverages brought across the border either in excess of the applicable traveller's allowance regulation or via so-called "ant smuggling".
Tax Leakage	Legally produced alcohol beverages on which the required excise tax was not paid in the jurisdiction of production.
Illicit Artisanal	Artisanal alcoholic beverages made for commercial purposes.

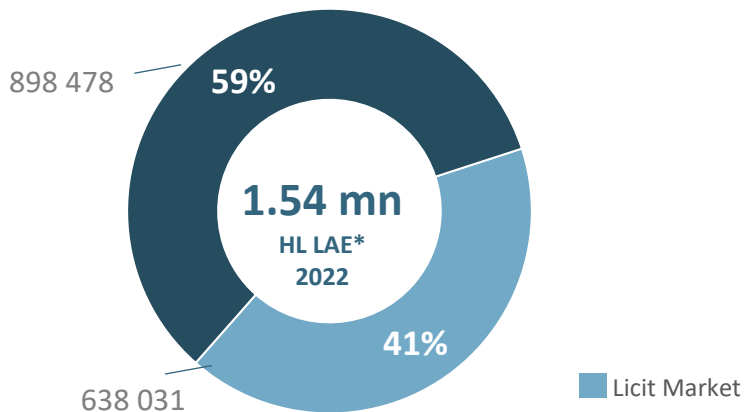
A background image showing a person in a shanty town, possibly a slum, with makeshift structures and debris. The image is dimly lit and serves as a backdrop for the slide.

Executive Summary

Key learnings

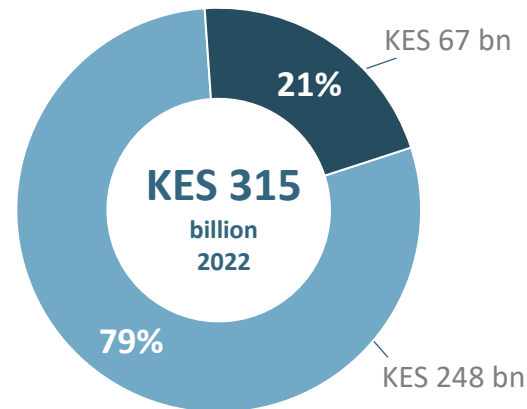
- The **expansion of illicit alcohol** is gathering pace, both in volume and value, outstripping **licit volume growth** and increasingly encroaching into the higher-value spirit market.
- **Illicit artisanal** alcohol accounts for more than **half of the total volume** of illicit alcohol but the **real value** of illicit trade lies in **counterfeiting, smuggling** and rapidly developing **tax leakage**.
- **Fiscal loss** is primarily driven by mainstream and illicit manufacturers of distilled (spirits) alcohol attracted by its **high profitability**, efficient **production** and potential for easy sale into **licit channels**.
- **Mass-market, high-volume** brands are the main target of **counterfeiting and smuggling** but **smugglers** are also interested in **ethanol**, driven by increasing demand from **illicit commercial** alcohol manufacturers. A mix of **mid-market** and **premium spirit** brands are also targeted alongside high-quality **cider and beer**.

Despite a low value share of the overall alcohol market in 2022, growth in volume sales and consumption is significant



59% Illicit Alcohol Volume Share of Total Alcoholic Drinks 2022

- **Illicit alcohol volume** sales of **898,478** HL LAE now comprise **more than half** of all sales of alcohol in Kenya.
- **Licit** alcohol volume sales grew strongly across the period 2021-2022 by 63%.



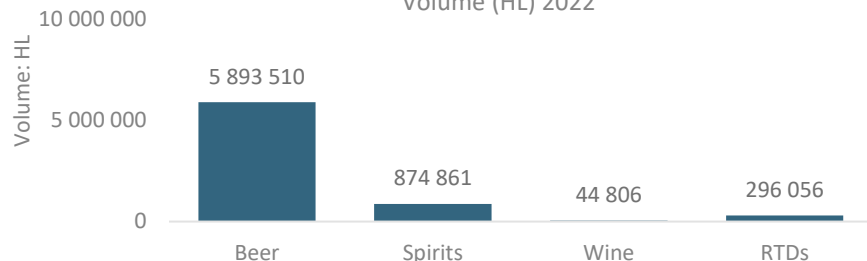
21% Illicit Alcohol Value Share of Total Alcoholic Drinks 2022

- **Value sales** of alcohol are dominated by **licit** alcohol at **KES 248.1 billion**. Value sales grew at 70% during 2022
- **Illicit** alcohol sales of **KES 67 billion** have seen strong growth in value since **2020**, reflecting its wider distribution and increased volume sales.

Spirits consumption continues to grow as variety in packaging sizes and affordability increases

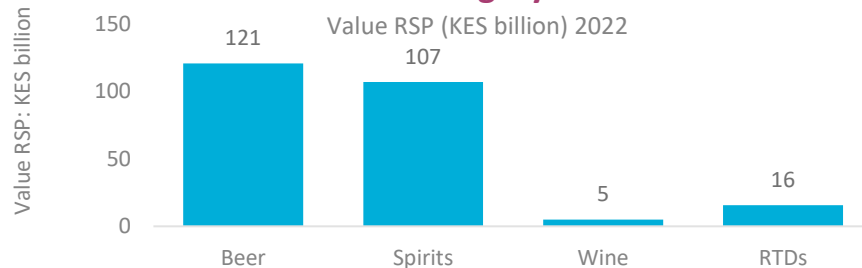
Total Legal Alcoholic Drinks Volume by Category

Volume (HL) 2022



Total Legal Alcoholic Drinks Value by Category

Value RSP (KES billion) 2022



Beer is the largest category, but sales have been depressed by the **slow recovery** and reopening of **on-trade** outlets post-COVID-19 as well as a **consumer switch** to **lower-priced, higher-alcohol spirits**.

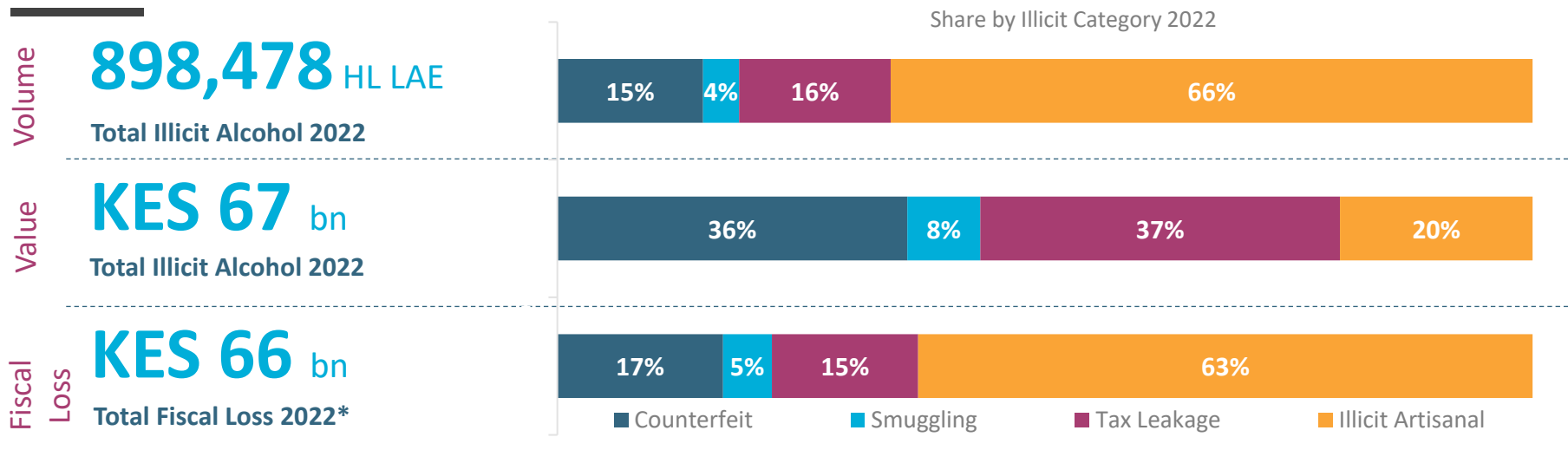
Spirits have widespread appeal in Kenya and are available at a **range of price points** through the **on-trade** as well as being distributed through a range of **off-trade retail stores**.

Gin is popular among **millennials** with **RTDs expanding** their presence through the appeal of **variety, affordability** and **suitability** for at-home and out-of-home drinking occasions.

Wine consumption is growing, particularly among Kenya's **wealthier middle class** who are searching for **high-quality alcohol** in wine as well as **spirits**.

There has also been growth in the presence of and demand for **no/low alcoholic drinks** which are promoted as **low in calories and sugar**, particularly appealing to female drinkers.

Illicit alcohol is widespread, readily accessible as illicit volumes continue to grow



- **Illicit trade in alcohol** is **widespread** in Kenya, affecting popular alcohol types such as spirits, beers and wines.
- **Counterfeit** and **smuggled spirits** are key categories of illicit trade but the volume of **illicitly artisanal spirits and home brew**, once present on a small scale in rural areas, is now widely available and produced on a commercial scale.

- The avoidance of payment of high taxes and duties is the driving force behind much of the illicit trade but especially of **tax leakage** through highly profitable sales of under- or non-declared production.
- Greatest **fiscal loss** is accrued through distilled (spirits) alcoholic drinks particularly in tax leakage and a growing trend towards premium spirit counterfeiting and smuggling.

Price differentials and profitability and encourage illicit trade and consumer purchasing



Affordability

Illicit alcoholic beverages are often **sold at a lower price** than legal drinks, as a result of noncompliance with tax and excise regulations.

Price differentials **driven by high taxes** and more **costly raw materials** for legal alcohol make cheaper, illicit alcohol beverages more affordable.

It also **encourages widespread consumption**, particularly among young people, many of whom are unemployed or poorly compensated for their work.



Accessibility

Illicit alcoholic beverages are distributed through **street vendors, taverns and drinking dens** as well as formal retailers including **licensed public events, liquor shops, grocery retailers, bars** and other hospitality outlets.

The illegal distribution network allows illicit alcohol to **infiltrate all channels** in the market, **undermining the integrity** of the alcohol industry.

Widespread **bribery and corruption** according to trade sources ensure the continued presence of illicit alcohol in all channels.



Enforcement

Minimal police focus during the pandemic coupled **with increased demand** has demonstrated the **profitability** of illicit alcohol to **traders** as well as **corrupt officials**.

Despite the existence of robust laws and regulations, **enforcement remains a challenge**.

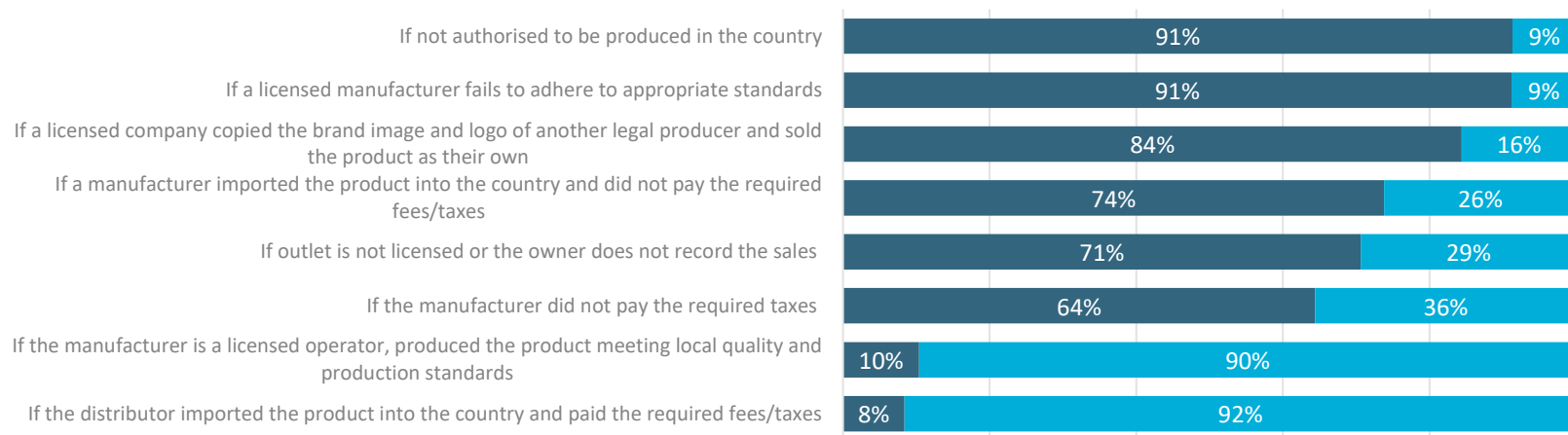
Authorities and the **court system** are slow to increase **enforcement, penalise or incarcerate** those involved in this trade, doing so usually in response to **fatal incidences**.

Consumer knowledge of regulation, production standards and brands demonstrates a clear understanding of what is legal and what is not

Consumers' understanding of what an illicit product is easily differentiates between authorised and unauthorised products as well as the quality and hygiene of licensed and unlicensed alcohol. Consumers also recognise that copycat, counterfeit and illegally imported products are illegal. Knowledge of regulation also extends to unlicensed premises and outlets and the illegality of unrecorded sales. Knowledge of illicit alcohol and its consumption is now multi-generational with younger consumers learning and accepting the consumption of illicit alcohol from their families and neighbours. However, knowledge is not a barrier to consumer pragmatism as price and economic drivers of behaviour are more impactful.

Consumer perception of what makes products illicit/illegal

■ TRUE ■ FALSE



Source: Euromonitor International, Trade Interviews, Consumer Survey (n=1,009), April 2023

Q. What do you think makes a product illicit/illegal?

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A greater focus is being brought to illicit alcohol under the influence of new administration leaders

A coordinated multi-agency approach to eradication of illicit alcohol has been boosted by the direct support of President Ruto who has made its eradication a central plank in his administration. Led by the National Authority for the Campaign Against Alcohol and Drug Abuse (NACADA), joint initiatives have stepped up actions to combat counterfeiting, smuggling and illicit production through higher levels of investigation, border control, inspections, raids and closure of illicit distilleries. Concerted actions in the administrations of five counties in the Central Region involving all relevant state agencies are now seen as a potential model for future actions in other counties in Kenya.



Businesses, politicians, tribal leaders, police, customs and border control officials are on notice that **any involvement** with production, distribution or sale through licensed or unlicensed outlets will be considered **criminal activity** and be subject to punishment by the law.



The **East African Business Council** has advised member countries to **review contracts and costs** for digital tax stamp (DTS) system implementation. This advisory notice comes amid recent multi-million Swiss Francs **finances and penalties** imposed on SICPA, the Kenyan contractor, for **criminal activity** and **acceptance of bribes** by **Swiss courts in April 2023**. Action is needed in **Kenya** as **renewal of the DTS contract is imminent**.



Church and community leaders are also being encouraged to support **community initiatives** and **reporting of illicit activity** and operations in their areas as part of a **cohesive national approach** to stamping out illicit alcohol.

Unrestricted growth of suppliers and outlets provides easy access to and lower differentiation of illicit alcohol for consumers

69%

of consumers think illicit alcohol can be sourced through this channel



Street Vendor

55%

of consumers think illicit alcohol can be sourced through this channel



Neighbourhood Residential Home

52%

of consumers think illicit alcohol can be sourced through this channel



Tavern/Drinking Den

In poorer urban areas, the lack of regulated alcohol outlets and weaker law enforcement mean that street vendors are actively selling counterfeit and smuggled alcohol as well as traditional brews and other locally-made distilled beverages.

Vendors are placed in busy areas of townships, slums and city centres or may appear on bicycles.

Distributors often use residential homes as their key community-based distribution points. The houses may be homes to families, offering a source of income as a sales point, but often the houses are occupied solely for the purpose of distribution. Changaa, Karubu, Busaa and other regional fermented forms are sold.

Illicit alcohol is brewed locally and packed in small volumes (5 litres) or 250ml bottles of spirits and distributed according to quantities and familiarity with the buyer.

Illicit artisanal beer and spirits are equally consumed and generally sold by the cup. Counterfeit spirit and beer brands are widely available. The price suits the buyer who can drink up to 1-2 litres of illicit alcohol a day.

The distribution networks for counterfeit and smuggled alcohol are often highly decentralised, often anonymous and difficult to track, making it challenging for authorities to crack down on the trade. Undercover networks, unrestricted online sales and informal outlets as well as formal retail and licensed premises are the main channels for distribution.

Source: Euromonitor International, Trade Interviews, Consumer Survey April 2023

Q. In your opinion, where do you think one could buy illicit alcoholic drinks in your country? N = 1,009

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Illicit Alcohol Volume Sales

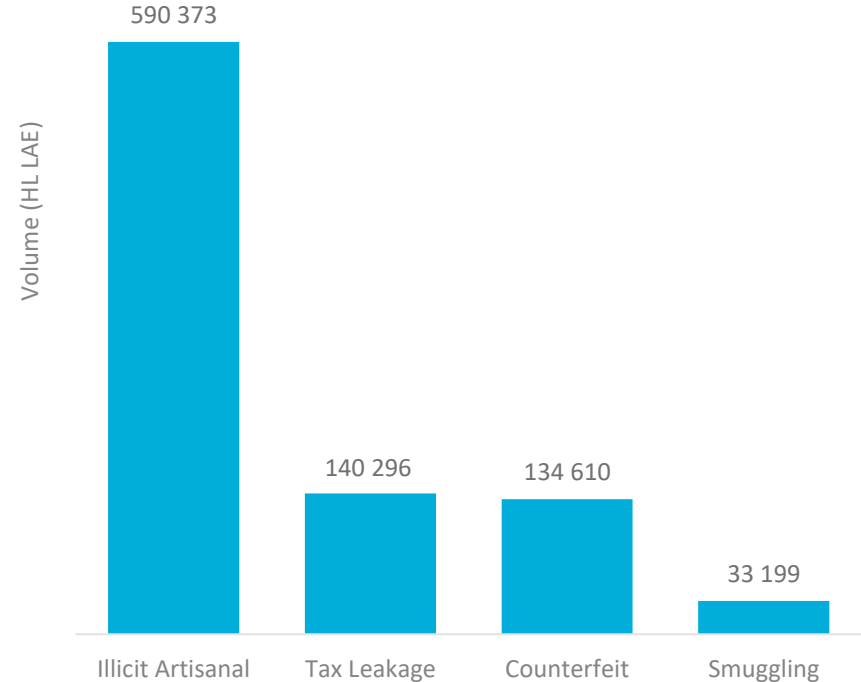
The majority (97%) of illicit artisanal homebrew volume is distilled into spirits of varied alcohol content.

Changaa is sold by informal traders in urban and rural areas as a cheap and potent alternative to licit spirits. Rapid commercial distillation or use of ethanol as a base ingredient has allowed large-scale production and distribution to develop.

Tax leakage, through the release of under- or non-declared licit alcohol to illicit alcohol producers, has increased alongside complicit importation and production of high-quality bottles, caps and labelling.

High-quality counterfeiting has also focused on higher-value spirits, whose industrial production and smaller packaging sizes support easier movement and distribution. Likewise, smuggling of ethanol and spirits outweighs that of beer, wine and ciders.

Illicit Alcohol Volume (HL LAE) by Category 2022



Illicit Alcohol Value Sales

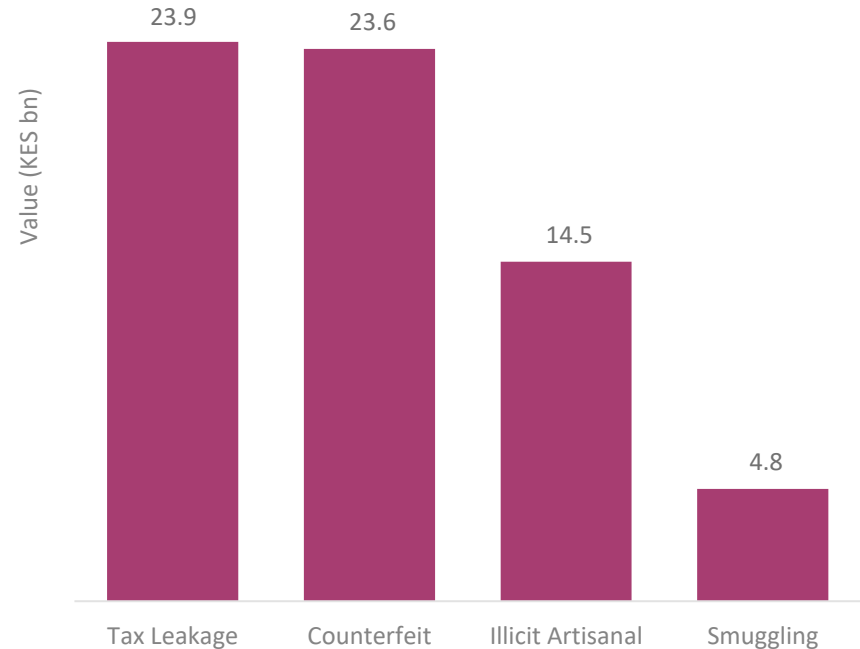
Unlike other forms of illicit alcohol, liquor produced through tax leakage, due to its profitability, is attractive as its high-quality, sometimes genuine, liquor and professional bottling eases its penetration into formal channels at full market price.

Counterfeit value sales are driven by high-turnover, mid-priced, popular brands sold at competitive prices. The quality of industrial-scale counterfeiting has improved allowing wider sales through formal and informal channels with substitution and refilling occurring on a much smaller scale.

Smuggling of ethanol is key to this trade with ethanol diverted back into Kenya after low export duties are paid.

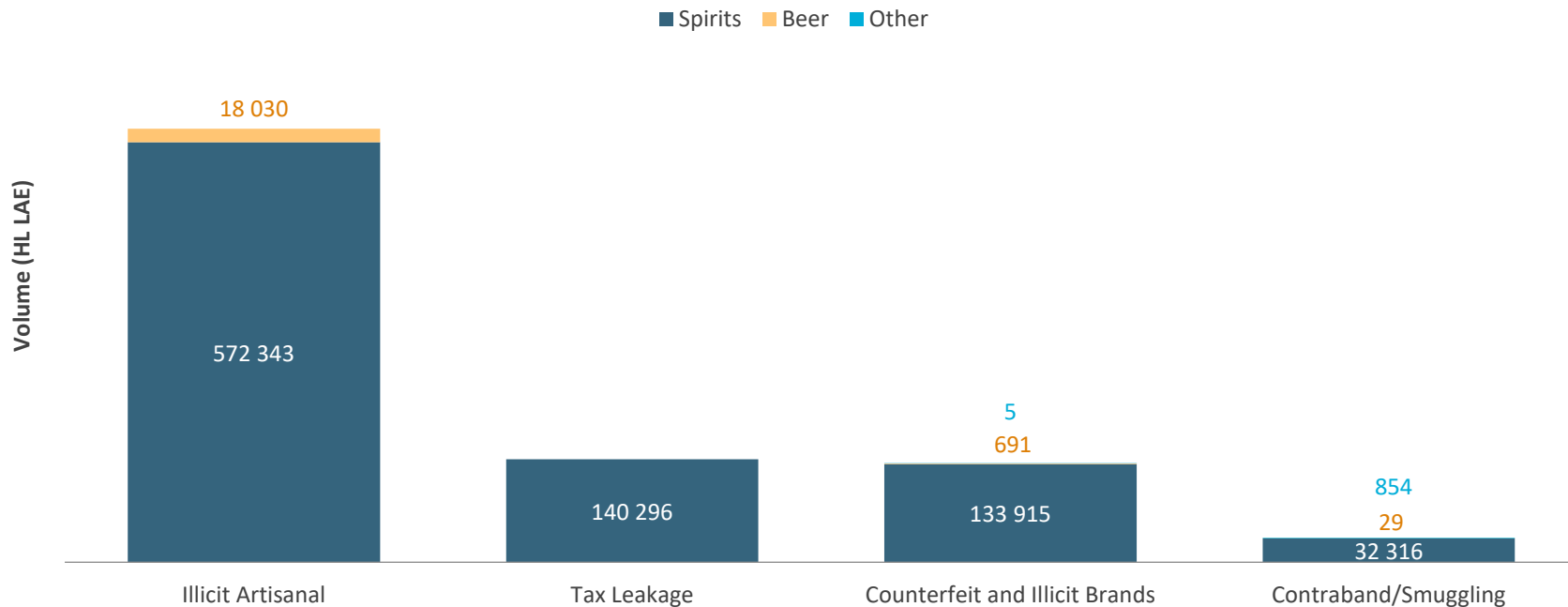
Smuggled finished goods, primarily high-volume, mid-market spirits, are sold at full market price but often sourced, especially premium spirits, in neighbouring countries at lower prices.

**Illicit Alcohol Value (KES bn)
by Category 2022**



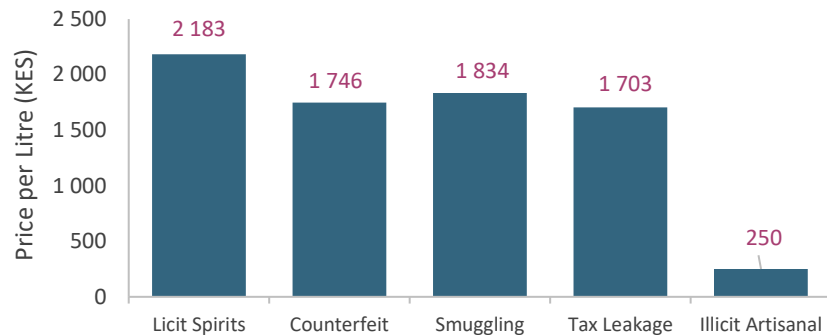
Spirits now dominate all forms and methods of illegality in the Kenyan alcohol market

Illicit Alcohol Market by Alcohol Type (HL LAE) 2022



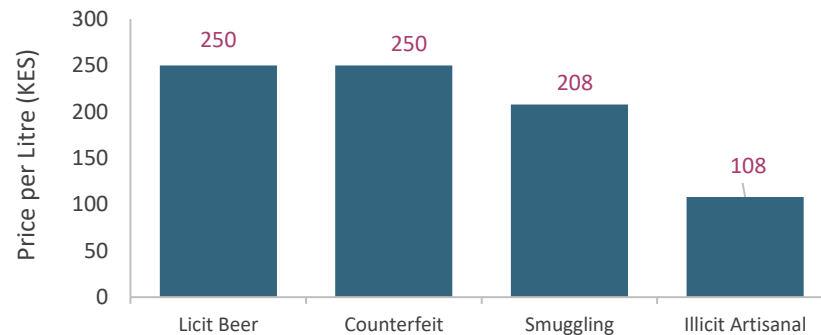
Artisanal alcohol is the cheapest on the market with significant discounts available to consumers through purchase of counterfeit and tax leakage sourced alcohol

Spirits: Average Retail Price per Litre (KES)



- A **22-25%** discount between licit and **counterfeit** spirit prices is reported in small independent retailers, liquor stores and through wholesalers.
- For **smuggled goods**, **13-20%** discounts are applied, however for example smuggled gin can be found in wholesalers on sale at full retail sales price (RSP) value.
- **Tax leakage** of spirits on sale at special request in liquor stores or through wholesalers show a discount between 15% and 33% when bought in 12-bottle cartons.

Beer: Average Retail Price per Litre (KES)



- **Counterfeit beer** is sold at a discount of between **26% and 33%**, mainly in informal outlets but also in wholesalers and liquor stores. Slabs of 24 cans are commonly sold in formal outlets available in **counterfeited, unpackaged formats**.
- **Artisanal alcohol** in varying strength is mostly found in informal outlets, with some **fermented** and **undistilled** alcohol sold in wine bottles, jerrycans and 5-100-litre drums.

Source: Euromonitor International, Trade Interviews, April 2023, Beware small sample base of outlet and products

Note: Licit market prices based on store audit data, April 2023 on-trade and off-trade; illicit prices based on store observations and interviews on pricing during April 2023



Centralise Control

Increase the powers assigned to the Kenyan Revenue Authority with a national campaign to formalise personal and business taxation.

Continue participation in enforcement by a central multi-agency focused on clearly defined KPIs based on levels of successful prosecutions.

Incentivise border controls and agents to ensure higher rates of enforcement.

Closer monitoring of access, distribution of ethanol (as a raw material) and enforcement of illegal distribution of ethanol across the value chain is required

Recommendations



Greater Premises Control

The combination of accessibility, and affordability as well as general economic pressures has contributed to the persistent demand for illicit alcohol.

Controlling easy access to illicit alcohol through unlicensed premises and sellers is critical to communicating intent to consumers.

Greater inspection, increased surveillance, traceability and monitoring of outlet stocking will make it more challenging for illicit alcohol producers to operate undetected.



Changing Perceptions

Increasing the potential of being caught alongside increased severity of penalties may change the assessment of the costs and risks associated with operating illicit breweries and distilleries.

For consumers, direct experience of the health damage from illicit alcohol is a main consideration, so highlighting trustworthiness of legal brands is key.

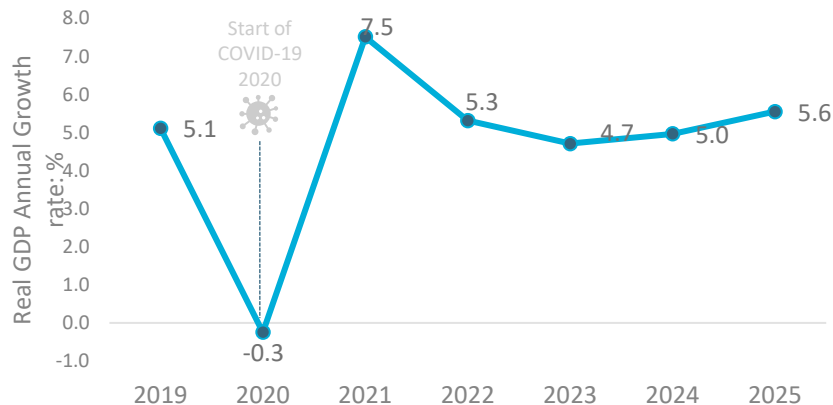
A clear message that the production and consumption of illicit brews is harmful and will not be tolerated is required to act as a deterrent and help reduce engagement in illicit alcohol production.



Macro-economic Overview

Kenya's economy is expected to rebound as demand improves and investment targets reductions in poverty and skills development

Real GDP Annual Growth %: 2019-2025



- With 39% of GDP reliant on agriculture and 21% on the wholesale and retail sector, disruptions in international trade and retailing due to COVID-19 led to a decline in real GDP in 2020, followed by rapid recovery in 2021.
- Growth slowed towards 2023 due to weak demand caused by lower incomes, rising energy and food costs, lower economic activity and high inflation. Recovery in real GDP annual growth rates is expected from 2023 as a new government brings political stability.

Unemployment Rate % of Economically Active Population 2022



Male: 11.9%



Female: 11.6%



Youth: 27.8%

- The economic slowdown is expected to result in lower demand for workers and a marginal increase in unemployment in the short term.
- Investment in access to high-quality education for out-of-school children aged 6-17 years as well as skills training for youths aged 18-35 targets improved employment opportunities and reductions in poverty as increased investment supports the structural transformation of the economy.

High levels of poverty, unskilled labour and income inequality encourage illicit activity



Poverty is endemic in rural areas and in urban slums

In 2022, **71% lived in rural areas** with **32.8%** living **below the national poverty line** as poverty continues to increase in Kenya. In comparison, in **urban areas**, only **one in five (20.0%)** lived below the national poverty line. **Inflation** peaked in 2022 at 7.7% exacerbating **income inequality** and depressing discretionary spending.

29.7%

Population living below the national poverty line, 2022

The population is young with a **median age of 20** in 2022 with almost **two thirds (64%)** of adults in the **lowest income classes (D and E)**. **Dependency rates and youth unemployment** are high at 68.6% and 27.8%, respectively, impacting on **government revenue** and the **burden** carried by those in **formal employment**.

39.7%

Urban population living in slums, 2022

According to government figures in 2019, **retail** is the **primary economic activity** in Kenya with **driving** as a skilled occupation having the greatest **employment opportunities**, followed by **salesperson** and **primary school teaching**. **Accountancy** is the **top-paying occupation**.

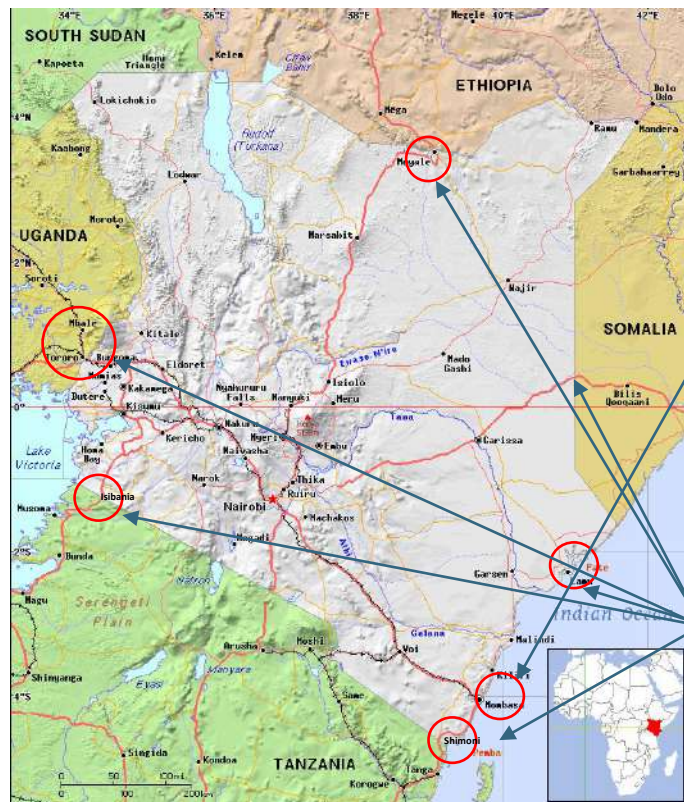


Many vulnerable people see illicit trade as a viable option to generate income

The **rural population** is highly dependent on **demand for agricultural products** and, as **drought** and **input prices** increase and national **disposable incomes decline**, pressure mounts for any form of **income generation** among **low-income households** in **urban and rural areas**. In regions such as **West Pokot, Kitui and Kilifi**, the share of the country's **vulnerable population** is highly concentrated, with opportunities to generate **any form of income** scarce.

Many households **produce alcohol** from simple, locally **available ingredients** such as sugar, cereals or molasses and are primed for involvement in **illicit commercial scale production** as a means to **generate an income**. **Sales to the local community** or to the **established network of traders and distributors of illicit alcohol** can be a lifeline to many households.

The region around Lake Victoria is the prime crossing point for illicit alcohol and its ingredients from Uganda and Tanzania



Kenya remains vulnerable to **counterfeiting** and **smuggling** mainly because it has **long, porous** and often **unpatrolled borders** with **Somalia** across flatlands and to **Uganda** and **Tanzania** across **Lake Victoria**, which reduces the state and its agencies' ability to detect smugglers.

Rampant small- and large-scale corruption of state agencies at borders, on roads and in monitoring retail trading and licensing allows large **networks of smugglers and counterfeiters** to operate freely.

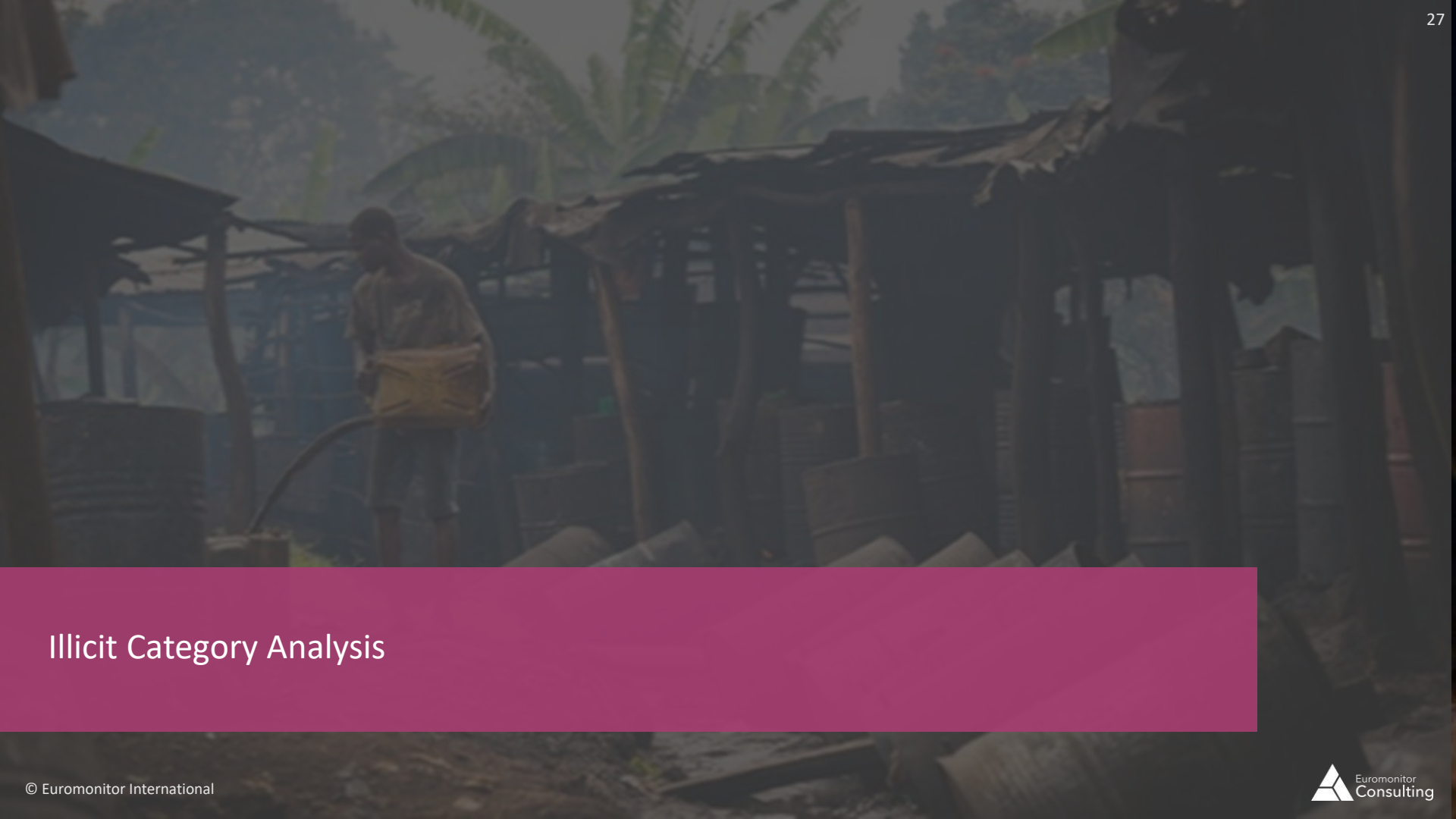
As a regional trade hub, **Mombasa port** is key to a leading international trade route for manufacturing in and outside Kenya and is also a leading **regional hub for smuggling**.

Small loads are often transported by **motorbike** (boda boda) or in **private cars**, on **bicycles** or simply **walked** across the border by travellers familiar to border staff. **Large loads** may be **concealed** in trucks and containers disguised as **tax paid loads**, **mislabelled** for importation or **misdirected** as inland production.

Border towns where traders are notorious in dealing with smuggled goods include **Isibania** and **Shimoni** (Kenya-Tanzania), **Mbale** and **Busia** (Kenya-Uganda) and **Moyale** (Kenya-Ethiopia). **Shimoni**, on the south coast, is an **official border post** but there are also five **unmanned entry points** in the area with one Kenya Revenue Authority **checkpoint** to cover all locations. **Cartels** operate in these areas with transport services arriving as boats unload. To the north, the areas around **Lamu** and **Kiunga** are locations for illegal maritime smuggling into and from **Somalia**, which is common despite the closed border in the region.

Map Source: www.mapsland.com

Source: Euromonitor International, Trade Interviews, April 2023

A photograph of a man in a rural setting, possibly a village. He is standing next to a large, dark, cylindrical object, likely a barrel or a large container. He is holding a long, curved pipe or hose. In the background, there are several other similar barrels and a structure made of wood and corrugated metal. The scene is set in a rural area with trees and a thatched roof visible in the background.

Illicit Category Analysis

Price and accessibility are the most important influencing factors considered among consumers stimulating sales in illicit alcohol trade

What Factors Influence Illicit Alcohol Purchases Among Consumers



95%

Price

People just want to get the cheapest price for the cheapest products



89%

Accessibility

As long as it is the product they want, they do not care



84%

Aspiration

They like to find more expensive brands at lower prices in the illicit market



82%

Availability

Restricting the sale of alcohol availability across retail outlets



77%

Variety

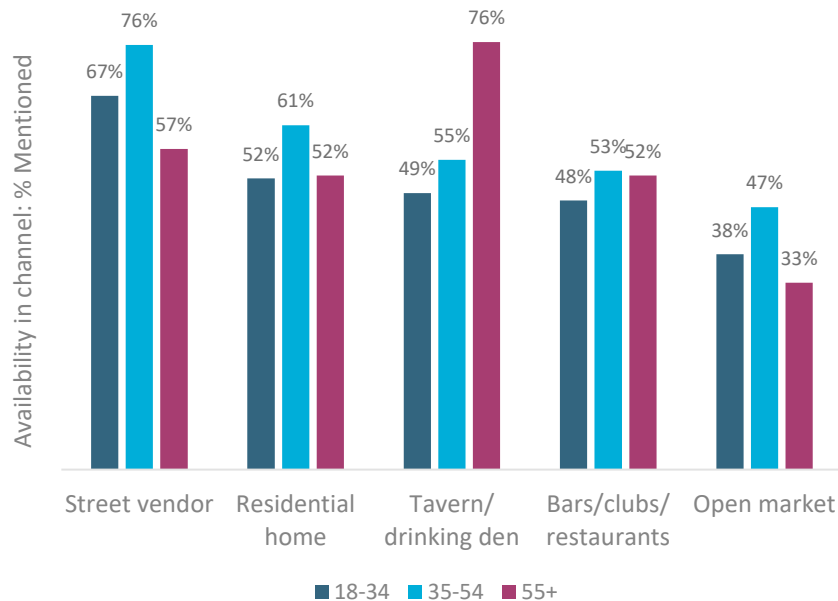
There are more product options available in the illicit market

Source: Euromonitor International, Consumer Survey, April 2023, n = 1,009

Q: In your opinion, how important are each of the following factors in influencing people to purchase illicit alcoholic drinks? (Very Important + Moderately Important)

Illicit alcohol is available in both informal and formal channels with the evidence of the impact of drinking the most influential way to deter purchasing

Top 5 Channels to Buy Illicit Alcohol



Access to illicit alcohol is possible through formal and informal channels. Street vendors or neighbourhood houses are the leading sources but more formal channels such as dens, taverns, bars and clubs as well as liquor stores are also known channels for the sourcing of illicit alcohol. One in three (33%) believe that it can also be sourced online through social media or online marketplaces, while one in four (26%) think they will find it at social events or shows.

90%

Learning or seeing first-hand the associated negative health risks

85%

Learning or seeing first-hand the damage to society

85%

The risk of being put in prison

Consumers believe that seeing the evidence of the impact of consumption of illicit alcohol on health and damage to society are the most influential ways of deterring consumers from purchasing illicit alcohol.

Non-drinkers of alcohol are more likely than drinkers to believe that the risk of being imprisoned or fined for being caught is a strong deterrent with one in every two regular alcohol drinkers feeling that being noticed buying illicit alcohol is a good deterrent to purchase.

Source: Euromonitor International, Consumer Survey, April 2023, n = 1,009

Q: In your opinion, where do you think you could buy illicit alcoholic drinks in your country?

Q: How much of an impact do you think each of the following would have in preventing people from purchasing illicit alcohol?

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Counterfeit and Illicit Brands

Counterfeiting and illicit industrial manufacturing is prominent in the illicit alcohol trade

Counterfeit and Illicit Brands

134,610 HL LAE

Illicit Volume

KES 23.6 bn

Illicit Value

KES 12.1 bn

Fiscal Loss

Profitability and low rates of detection encourage counterfeiting

- **Mass-market, high-volume brands** of alcohol are now the key target of counterfeiters with an **upward trend**, from a small base, in the targeting of **premium brands of alcohol of all types**.
- **Spirits** is the most counterfeited product category although some counterfeiting of **beer and wine** occurs on a smaller scale. Counterfeiting is often conducted in **rural factories** to avoid detection.
- **Price differences** and **profitability** of counterfeit spirits are the key reasons for production and sale, as **high taxation on legal branded spirits** drives sales of **lower-cost counterfeits**.
- The high **quality of counterfeiting** is also leading to **confusion among consumers** about what is and is not a legitimate branded product.
- **Police** and **KRA agents** are stepping up their rates of **raids** on **private and business premises** including **shops**, as well as increased levels of **seizures, inspections** and **closure of illicit production facilities**.

Ethanol is a key component in the production of illicit spirits

- Much of **counterfeited and illicit branded alcohol** is based on **ethanol** smuggled from neighbouring countries. **Smuggled ethanol** is cheaper than **legitimately produced** or imported ethanol.
- Kenya also manufactures ethanol but **supply is limited as the country cannot produce enough to support local demand**, thus it imports volumes from neighbouring countries.
- Kenyan ethanol may be **legitimately exported** to neighbouring countries but is often then **smuggled back** into Kenya.



Source: Business Today Kenya

Counterfeiters can act as subcontractors of original producers or use a range of techniques to produce and distribute illicit alcohol

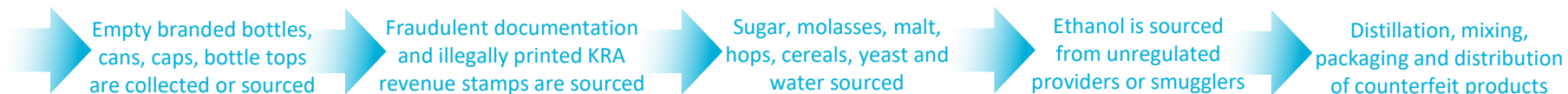
Refilling with fake Kenya Revenue Authority (KRA) stamps

- **Illicit spirits**, packaged in branded bottles that are popular locally, including brands such as Kane Extra, Trace Vodka, Konyagi, Blue Ice, Kibao Vodka and Chrome Vodka, are often targeted for counterfeiting.
- Counterfeiters usually **refill empty branded bottles** or **procure replica bottles** with **low-cost, lower-quality** spirits or add **diluted ethanol**. **Counterfeit KRA stamps** are attached to give the appearance of a **sealed genuine branded product**. There is preference for **counterfeiting white spirits** such as **vodka** and **gin** due to their **minimal colour and flavour requirements**. There is also a proliferation of **illicit brands** of substandard quality that are **unlicensed** or **banned** in Kenya.
- Leading brands of **beer in cans** such as Tusker are also counterfeited. While refilling and substitution of wine with lower-quality wine does occur in both on- and off-trade outlets, however in a limited fashion.
- **Counterfeiting techniques** can include printing of **fake standardisation labels** to place on fake goods, **repackaging** of counterfeit alcohol in **recycled** or **reproduced** branded containers, known counterfeited, branded alcohol, or **locally manufactured counterfeit alcohol** by **registered companies** or **overproduction** of genuine branded alcohol that is **diverted** into the market **without excise duty payment**.
- Counterfeit alcohol is **sold to wholesalers** and usually consumed in **informal** or **low-income areas** and purchased through small **unlicensed premises**, makeshift bars, or street vendors on foot or on bikes. It may be disguised as herbal medicine, or other liquid and is also sold through **formal outlets** including licensed liquor stores and small grocery retailers. **Counterfeit beer** appears in branded cans or is sold by the cup.



Source: Nairobi News

Production Cycle



Sophisticated networks are involved using short supply chains to avoid detection



Mid-market affordable brands



Easy access and low prices make illicit alcohol attractive

- Low prices and easy access in shanty towns, in urban and rural locations, through unlicensed premises are common. High prices of legal alcohol have made legitimate products less affordable for many middle- and low-income consumers.
- Increasing market visibility, social acceptance of illicit alcohol consumption, rising unemployment, inflation, a flagging economy and high taxation drive sales of cheaper, illicit alcohol.
- A short supply chain (producer, distributor, retailer) deters detection by authorities. Ease of hiding home brew, for example, encourages producers.
- Porous borders, corruption and ineffective enforcement according to trade sources increases the supply of some raw materials.

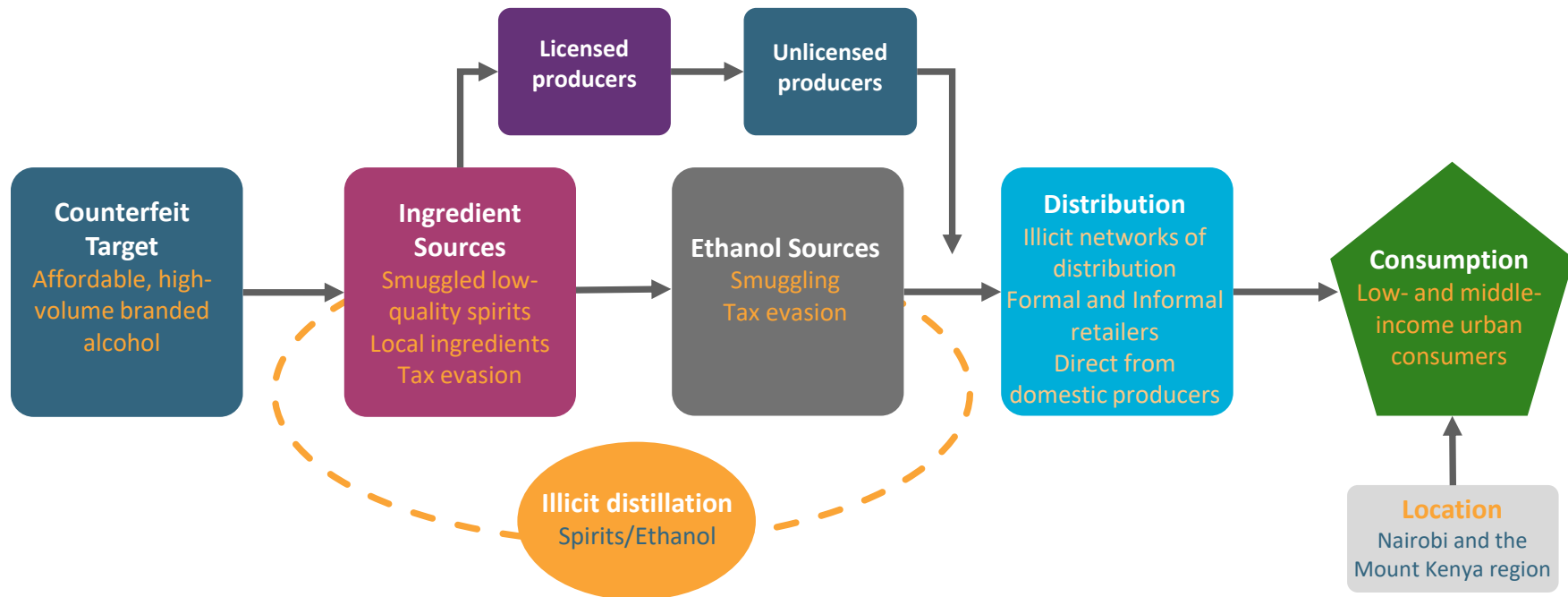
Government-backed enforcement set to increase

- Increasing awareness of the health risks associated with excessive alcohol consumption has led to a minor shift in middle- and higher-income consumer consumption of low/no alcohol beverages and, to some extent, the avoidance of illicit alcohol.
- KRA, police and court prosecutions of high-profile, well-known businessmen involved in large-scale counterfeiting of alcohol may act as a deterrent.



Source: Kipngwata
Counterfeit vodka ready to be transported; Seized counterfeit tax stamps

Mass-market ranges are the key target of counterfeiting enticed by the potential for large volume sales across the country



Most of the affected drinks are the spirit category, that is gin, vodka, whiskey and rum. This mostly happens when legal brands are refilled with cheap distilled products. There has been no such case reported in the beer category. Counterfeit products are around 20% cheaper as compared to original brands when sold in wholesale but they are sold at the same prices to consumers by retailers, therefore making huge profits.

- Illicit alcohol producer



Contraband/Smuggling

Weak border controls, widespread corruption and vast unpatrolled boundaries between countries sees smuggling expand

Contraband/ Smuggling

33,199 HL LAE

Illicit Volume

KES 4.8 bn

Illicit Value

KES 3.5 bn

Fiscal Loss

Smuggling affects all types of products

- **All types of alcohol**, including spirits and wine, are affected by smuggling. **Spirits** and **wine** are particularly susceptible due to their **higher value** and **ease of transportation** due to their **smaller size**, with this type of smuggling often carried out by **travellers** and unscrupulous **businesspeople**.
- The cost of **branded alcohol** in neighbouring countries is often **lower than in Kenya** due to lower excise duty or levies and may encourage **smuggling to order** or to meet **growing demand for premium alcohol**.
- Most of the smuggled alcohol in Kenya originates from **Tanzania and Uganda**, while the more expensive **wines and spirits** are sourced in **Ethiopia and Somalia**. Alcohol packed in **sachets from Uganda** is sold in the western region of the country.



Source: ISS Africa

Smuggling ethanol is lucrative and relatively risk-free

- **Ethanol** is the **most valuable smuggled form of alcohol** across the borders from **Tanzania and Uganda**.
- **Ethanol** is produced in Kenya but in volumes that are insufficient to meet demand. Much of this ethanol is **exported to Uganda**, attracting **low export taxes**, but often returned to Kenya through **smuggling** or else **diverted** before crossing the border. **Illicit ethanol production** factories in Kenya or those **close to the border** in Uganda and Tanzania are also sources of ethanol used in the production of **illicit alcohol** in Kenya.

The impact of smuggling has many forms

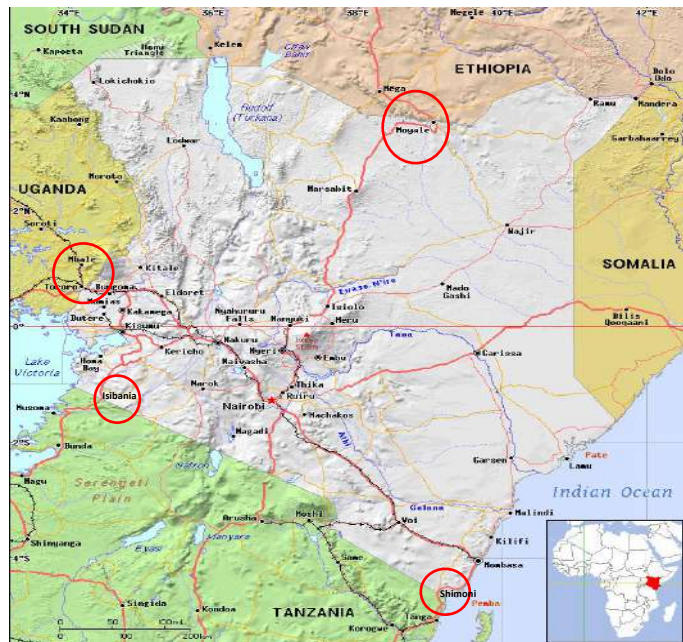
- Legitimate businesses may acquire **exclusive distribution rights** but when they visit **stockists** the brands under agreement may **already be stocked** by the wholesaler/retailer, albeit with **counterfeit** and **smuggled** bottled alcohol.

Smuggled networks are well established to reach consumers across rural and urban retail outlets

Smuggling of finished products and ethanol is a reliable and profitable source of illicit alcohol

- Smuggling is enabled by **collusive customs officials** and **clearing agents** according to trade sources who wave through trucks carrying ethanol while declaring and paying tax for alternative goods. **Transport police** are also collusive and allow regional and nationwide **deliveries to known illicit alcohol manufacturers**.
- Smuggling of **disguised but genuine** branded alcohol, or **transit fraud** through diversion into the local market, occurs through **border checkpoints** or across remote unmanned regional **back roads**. **Popular spirits brands** such as Konyagi, Captain Morgan and Beefeater Gin are key targets of smuggling.
- Smuggled alcohol is mainly **consumed** by a wide range of individuals and sold in **urban settings**, particularly in areas with a concentration of **on-premises outlets** such as bars, clubs and other entertainment venues. In **rural locations**, **off-premises consumption** is more common particularly in private **residences** or during **informal gatherings**.
- Kenya has **low production volume levels of food ethanol** used in alcoholic beverages and other industry applications.
- Sugar molasses** is the **main feedstock used to produce local food ethanol**. Molasse is a byproduct from sugar cane production. The local sugar industry **cannot produce enough molasse** to be converted to food ethanol creating a shortage.
- Over the past five years local sugar producers have been **hampered by increased raw material input costs, reduced capex spending on mills and capacity utilisation constraints, low sugar cane yields and reduced number of sugar producing farmers** who have converted to farming other crops (e.g. corn maize).
- Kenya relies **mainly on imports for its ethanol** from international countries, including its neighbouring countries, Tanzania and Uganda.
- Ethanol prices of ethanol per litre are cheaper in Tanzania and Uganda**, making them ideal sources of ethanol for local traders.

Smuggled networks are well established transporting illicit ethanol to traders and wholesalers in Kenya



Map Source: www.mapsland.com

Production Cycle

Empty 20-200-litre jerrycans and drums are collected

Jerrycans filled with alcohol/ethanol, disguised and packed with cover cargo

Disguised and transported through customs at borders or ports by walking, boda boda/motorbike, bus or truck

Direct resale, to-order service, repackaging or use for refilling/ substitution, counterfeit unbranded, distribution to wholesalers/traders

There are multiple established routes for smuggling dependent on cargo type and size

- **Illicit ethanol traders** have resorted to **smuggling ethanol** into the country taking advantage of **rising local ethanol demand, price differences and higher ethanol availability** in Tanzania and Uganda.
- Smuggling of ethanol is also driven by **weak border patrols, widespread corruption and unmanned entry points** along Kenya's borders. **Isbania** and **Shimoni** (Kenya-Tanzania), **Mbale** and **Busia** (Kenya-Uganda) and **Moyale** (Kenya-Ethiopia) are popular routes.
- Smugglers may transport **200-litre drums of ethanol** across the border **disguised** and transported with drums containing **cereals or animal feed**.
- **Boda boda/motorbikes** transport **20-40-litre jerrycans** and distribute them to local, smaller-scale producers in towns and villages close to the border. **Panya routes** or **informal cross-border routes** are used in less patrolled regions with **multiple carriers** loading trucks away from sight.
- **Cover cargo** that attracts **no or lower import duties** is used by truck drivers **smuggling ethanol** or other alcohol, paying **tax for the cover cargo** and thereby constructing a **legal and registered import record**.

Improving enforcement is having an effect on smuggling and sales of smuggled goods



Smuggled Konyagi gin from Tanzania with Tanzania tax stamp



Low cost and easy access support expansion of smuggling

- The rise of alcohol smuggling in Kenya is related to inflation, high rates of taxation and increasing excise duties leading to higher alcoholic drinks retail prices – higher than neighbouring countries.
- Smuggled alcohol is usually sold at prices lower than those of legitimately distributed alcohol.
- The increasingly easy access to low-cost illicit alcohol also helps promote its sale and use by consumers while incentivising smuggling activity.
- Interest in new flavours, brands and products also drives smuggling of low-cost and profitable imports from other countries.

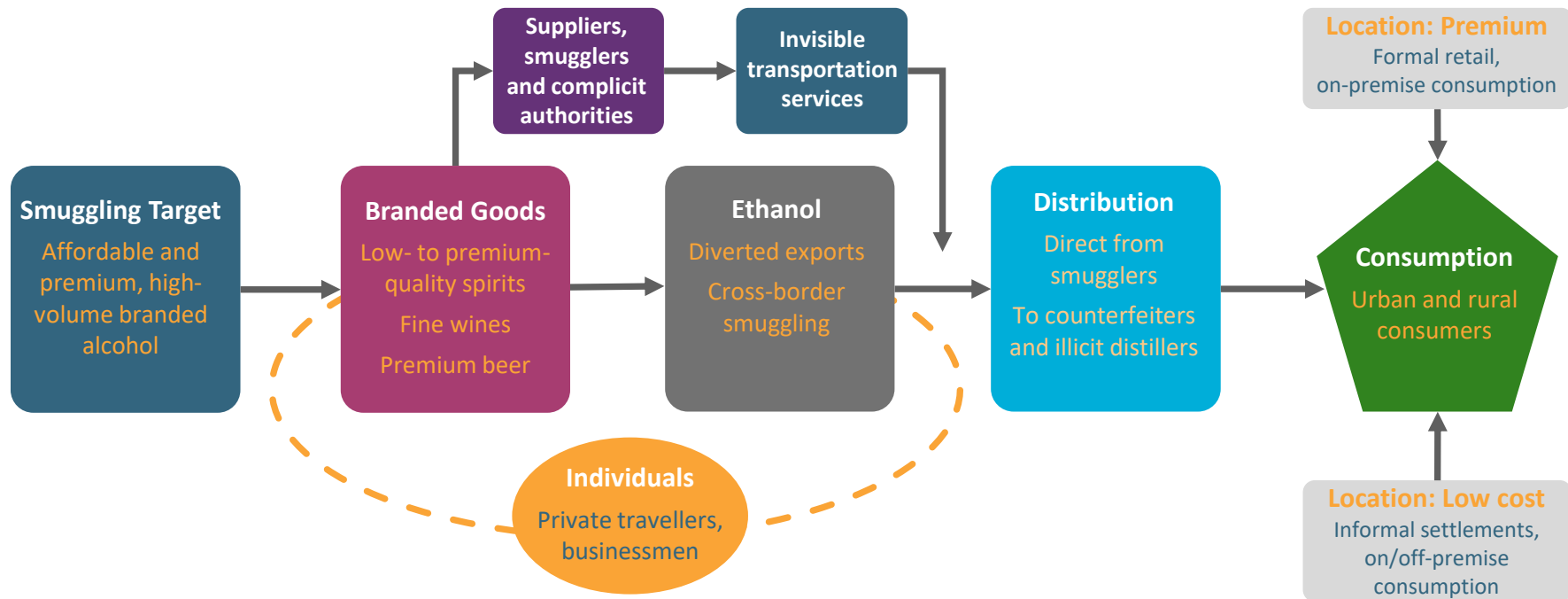
Regulation and enforcement start to bite

- Heightened activity by multi-agency border patrols, monitoring and enforcement across all border regions and in urban areas with increased police raids of illicit dens, stores and unlicensed outlets is starting to have an impact.
- Regulation changes have also led to decreased smuggling activities; for example, bail amounts have been increased as well as sentences for anyone found guilty of smuggling or selling smuggled alcohol.
- KRA's continuous changes to tax stamps over time allow anyone selling alcohol with outdated stamps to be charged and penalised.
- Stock checking in formal outlets has increased with licences being revoked if smuggled alcohol is found for sale.



For sale but carrying Ugandan tax stamps

Porous borders and complicit officials validate smuggling and illicit importation of ethanol, branded and counterfeit alcohol



Most of these ingredients are sourced from outside the country and are illegally sneaked into the country. As corruption is rampant in our country, smuggling has become easier. Ingredients are mainly smuggled from our neighbours, Tanzania and Uganda, through the borders.

- Distributor



Tax Leakage

Unscrupulous small operators under or don't declare production of goods thus avoiding paying excise on products

Tax Leakage

140,296 HL LAE

Illicit Volume

KES 23.9 bn

Illicit Value

KES 10.9 bn

Fiscal Loss

All aspects of the supply chain demonstrate tax evasion

- **Unscrupulous small spirits manufacturers** look for ways to **avoid paying tax and duties** by **under-declaring** or selling **undeclared volumes** or **illegally** manufacturing and distributing spirits, thereby avoiding **government levies** on alcoholic products.
- An estimated 32% of overall volumes of legal spirits in 2022 are estimated to be **unrecorded** for tax purposes, indicating a significant level of **non-compliance** with taxation regulations in the alcohol industry.
- Some **large businesses** and **high net worth individuals** have been involved in high-profile **raids** and **prosecution** for involvement in **tax evasion** through counterfeit and **under-declared** production and distribution of illicit alcohol in many forms.



Source: Nation.Africa

Local secondary industries are involved in supporting tax evasion

- **Unregistered or banned brands** are also available that evade excise taxes, enabling them to sell at lower prices and create unfair competition in the market.
- **Secondary processors of ethanol** may also declare high volumes as damaged and **unuseable** and **divert** these volumes to **unregistered businesses** involved in **counterfeiting** or **illicit production** of spirits.
- **Unregistered sellers** of licit and illicit alcohol are numerous with little effort to **convert informal or unlicensed outlets**, such as unregulated liquor stores and unlicensed vendors, to **registered tax-paying businesses**.

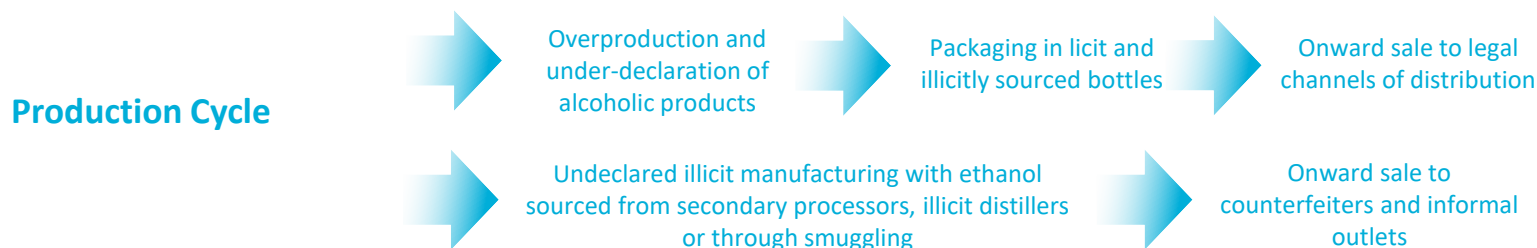
Extensive investigation is required to identify business-related tax evasion

Fraudulent activity occurs throughout the value chain

- **Irregularities** and undeclared production in **glass, caps and Import Standardisation Mark (ISM) contracts** allow producers to bypass some of the **security features** used to **establish genuine production** and facilitate **undeclared production** of licit spirits to be **diverted** into the Kenyan market.
- Local **glass bottle or cap manufacturers** may **under-declare** the number of bottles/caps manufactured and **sell the bottles/caps** to manufacturers at **half the price** while supplying **double the number** of bottles/caps, thus **facilitating under- and non-declaration** of sales by a genuine brand.
- **Blending** of ingredients by a manufacturer, rather than distillation, including the use of **significant volumes of undeclared alcohol**, is often a **quicker method** of producing and distributing counterfeit alcohol which can often be sold under the producer's genuine brand.
- Multiple **licensed bottling factories help** facilitate tax evasion with little interference from **health and quality standards authorities** or **intellectual property** and **trademark** enforcement. The bottling factories syphon off **undeclared alcohol** and remove the **evidence** from the manufacturer's premises and later return the products for **distribution** or **sell directly** into the market as legal volumes.
- **Transit fraud** is also common with alcohol declared as a different **cover cargo** attracting lower levels of **tax and duties**. **Export diversion**, where goods due to be **exported** remain in the country and **illegally re-enter** the **Kenyan market** is also a source of tax leakage.



Source: SafeProof.org



Genuine brands and undeclared spirits are hard to distinguish by consumers



Source: PulseLive

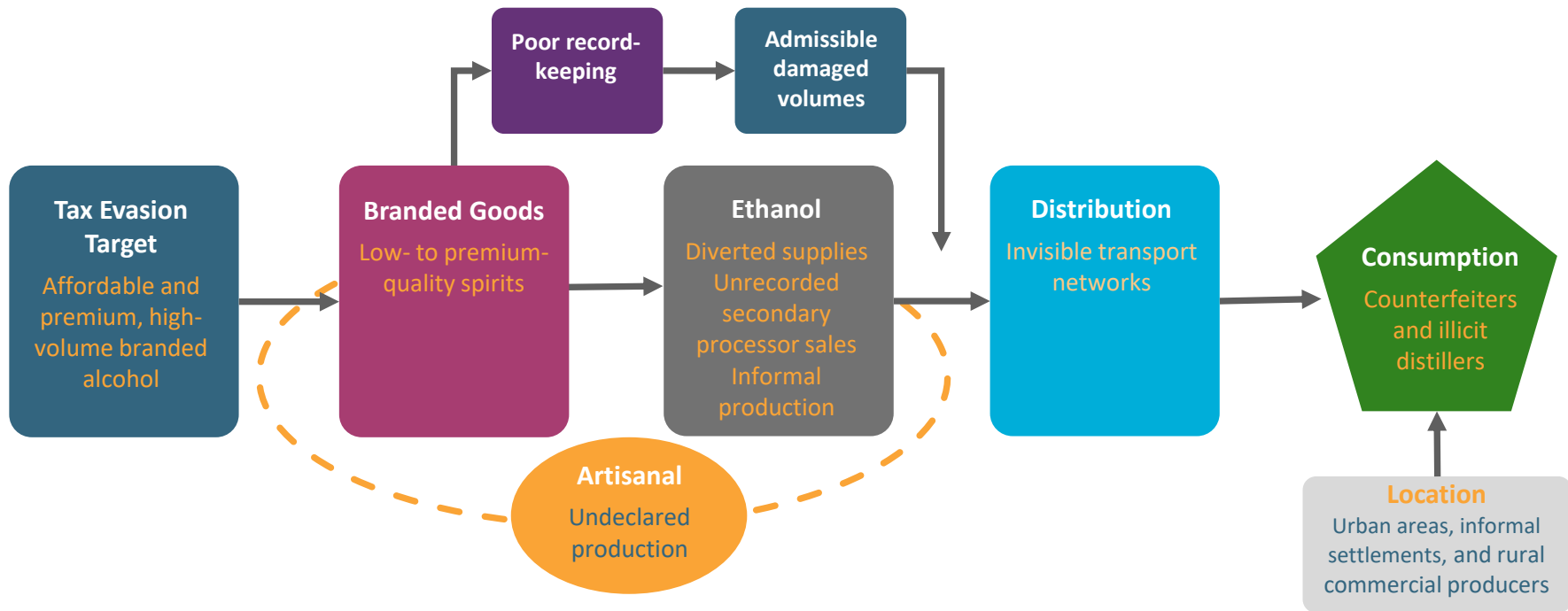
Unscrupulous businesses are a lead source of tax leakage

- Uneconomic and high excise duty and taxes deter smaller manufacturers from paying tax to the state, with many reverting to under- or non-declaration of product volumes and sales.
- Retail demand for low-cost legal brands of alcohol made with undeclared spirits is high, with these often appearing as branded products and sold openly in all channels. It is difficult for consumers to determine if products are undeclared products from genuine brands.
- Complicity of inspection, standards and enforcement agencies hampers detection.
- The growing number of producers, including artisanal distillers, that operate informally to evade taxes increases the level of tax leakage.

Greater KRA powers play a key role in track and trace enforcement

- KRA officials are cracking down on non-declaration of goods through increased inspections of manufacturing and warehousing facilities as well as doing spot checks across formal and informal sales channels.
- Better tracking of supply chain and post-importation verification checks for incorrect declaration are identifying key players providing illegal bottling.

Invisible tax evasion involves other aspects of illicit trade including smuggling and counterfeiting





The most common illicit activity taking place in the country is the sale of counterfeit alcohol. We have some other manufacturers and distributors who package substandard alcohol as premium brands. Illicit smuggling of ethanol into the country is also another increasing activity taking place in the country. Tax evasion is the end result, and the government ends up losing revenue through these activities.

- Manufacturer



Illicit Artisanal

Ineffective enforcement of regulations and dearth of prosecutions increases tolerance of widespread illicit artisanal alcohol production

Illicit Artisanal

590,373 HL LAE
Illicit Volume

KES 14.5 bn
Illicit Value

KES 44.9 bn
Fiscal Loss

Production for sale remains illicit but is unregulated in many regions

- The production and sale of **artisanal homebrew** is **legal** in Kenya on a domestic basis but becomes illicit when produced and sold for monies to end consumers.
- Both **fermented artisanal beverages** and **spirits** such as Mnazi, Busaa, Muratina, mti ni dawa and Changaa are produced and available across Kenya. **Homebrew** production is on a **household** or **community** basis, but **distilled** spirits are extensively produced on an **illicit commercial basis** for profit.
- **Changaa**, a distilled (spirit) homebrew beverage, is widely brewed and distilled, to produce a **potent and often dangerous form of alcohol** that is often the only source of income for many households living in poverty across Kenya. Changaa has a high potency, is highly addictive and affordable.
- It is made in **towns and villages** as well as in the **slums** of major cities and is created mainly from **ingredients available locally** such as seeds, grains, distilled maize, millet, fruit, vegetables, yeast, molasses, coconut or palm sap or **illicitly sourced ethanol**. It is sold roughly packaged in old tins, plastic tubs or reused bottles and may be **adulterated** with cheap but dangerous ingredients such as **methanol** or industrial chemicals to **enhance its potency**.



Busaa being served at a local illicit drinking joint

The negative effects of illicit artisanal production outweigh its positive effects

- Its **impact on communities** can be extensive and is associated with alcoholism, family breakdown, drunkenness and often violence. Many **young men** become addicted, remain **unemployed** for substantial periods, **unfit to work** after consumption of illicit alcohol.
- **Changaa** is most often produced in areas of **low income, illiteracy and poverty**. It is a **subsistence industry** for many and remains a cause of many **social, economic and health** problems in the areas in which it is produced and consumed.

Artisanal production continues on a domestic scale but commercial enterprises are now deeply involved in production of illicit distilled alcohol

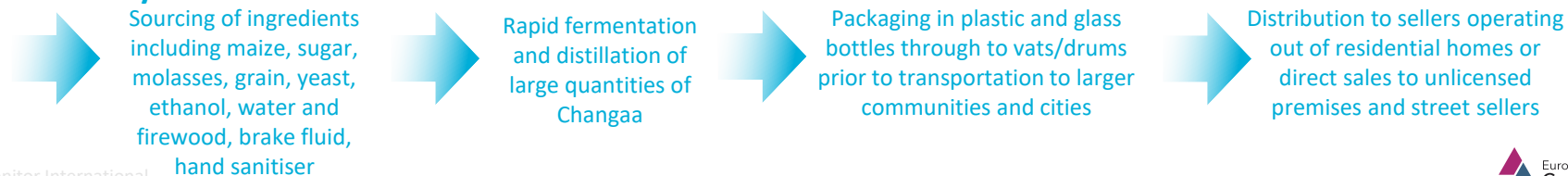
Despite crackdowns, illicit artisanal alcohol remains widely available

- **Local brew**, a common alcoholic beverage in rural areas, has also become prevalent in urban areas, including in towns and city slums.
- **Changaa** is usually brewed by rivers in rural areas but can be fermented in any area where water is accessible. Some **rich businessmen** are known to invest in **slum production** of Changaa, profiting without direct involvement in production. Brake fluid, hand sanitizer, fuel ethanol has been known to be added to brews, to increase alcohol potency, causing a toxic mixture for consumers.
- **Women and children** also take part in producing, selling and distributing the illicit alcohol, thereby supporting **household income generation** and lowering associated **expenses of trade**.
- **Illicit alcohol** is often distributed to and sold through **informal channels** such as unlicensed bars, drinking dens, street vendors, small shops and through residential houses. **Backstreet breweries**, where people set up **makeshift distilleries**, are a common source of artisanal illicit alcohol and may also be a **source of smuggled alcohol**.
- **Mnazi** is found in the coastal region of Kenya, **Busaa** in the Western and Nyanza regions as well as shanties in Nairobi. **Karubu** and **Muratina** are associated with the eastern and central regions of Kenya, respectively. **Bondeni** slum in Nakuru East is a regional hub for brewing and selling of **Changaa** and **Busaa**, often sold in jerrycans through to sachets by street vendors, licensed and unlicensed outlets.



Mnazi distribution centre at Timboni-Coast province

Production cycle



Fears of substandard and toxic illicit alcohol can deter consumers from purchase



Customer drinking from at an informal liquor store



Affordability and expanding demand as prices rise drives growth

- Poverty, the lack of employment and the high level of urban poor drive many to production and consumption of low-cost artisanal alcohol products.
- The affordability and potency of these beverages appeal to low-income and poverty-stricken buyers across the country.
- The government policy of continued increases in taxes has made alcohol expensive - consumers seek lower cost alternatives.
- Easy accessibility and reliability of home-made beers or spirits from small, locally-based producers makes it a safe, popular and affordable form of alcohol in many rural areas.

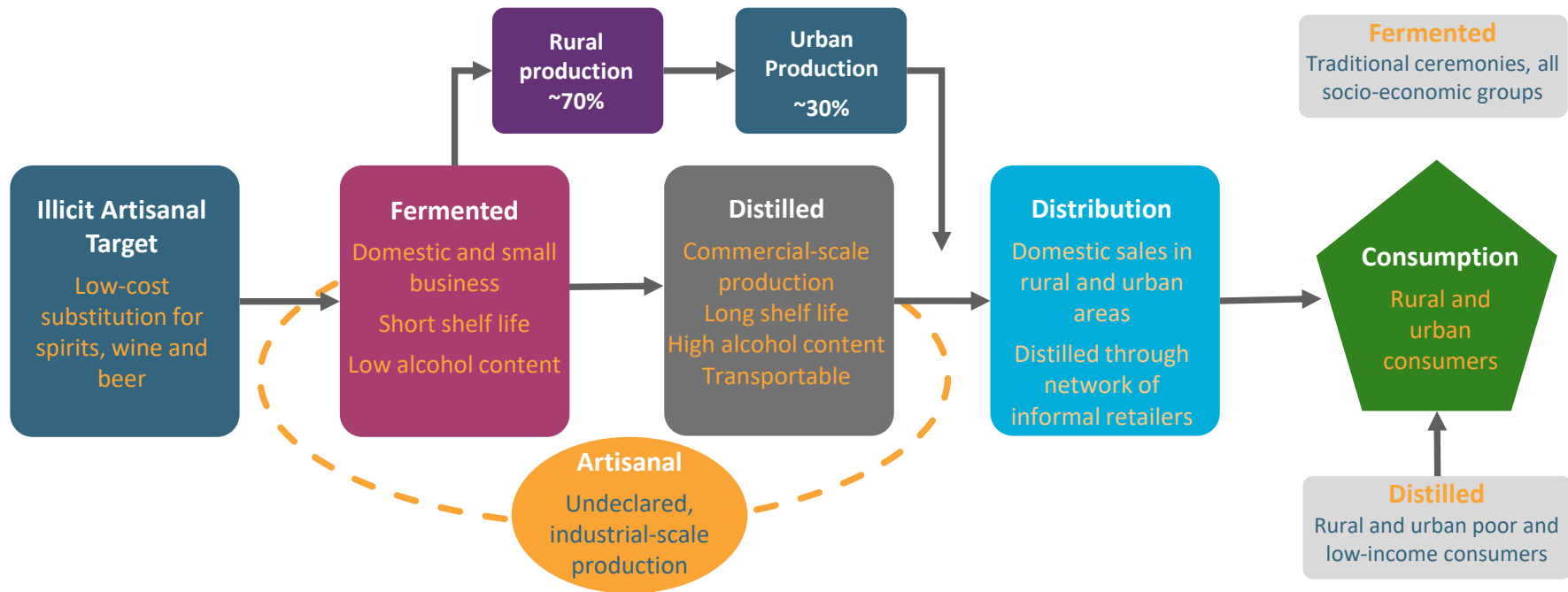
Unknown ingredients make strong illicit spirits unattractive

- Increased in-field operations of the KRA in coordination with other state players are constraining production and distribution.
- Low demand for artisanal products within cities due to fear of adulteration with chemicals limits sales.



Changaa outlet, next to an illegal brewery

Continuing demand for traditional legal homebrew but growing market supply of illicit artisanal spirits to urban areas



The local administrative officers play a crucial role in curbing the sale of homebrew. They conduct patrols in the designated areas of operation and have made rigorous efforts to combat the sale of illicit brews. Their actions are aimed at enforcing regulations and ensuring that the production and sale of homebrew are brought to a halt.

- State Authority



A photograph of a person in a rural setting, possibly a village. The person is standing in front of a structure with a corrugated metal roof. There are palm trees and other vegetation in the background. The image is somewhat faded and has a dark overlay.

Regulatory Environment

Regulatory changes and proposals

A strong framework of regulation of alcohol is in place

Multi-agency approach and activity are increasing effectiveness

- A strong **framework** for the control of illicit alcohol through all channels is in place but **consistent enforcement** is a challenge.
- A **multi-agency approach** is taken with agencies responsible for revenue collection (KRA), setting of product standards (KEBS), anti-counterfeiting offensives strategies and programs (ACA), and government-backed coordinating bodies (NACADA) as well as the national police service are involved in raids, inspections, seizures and prosecutions of those involved in illicit alcohol trade.
- There is a **concerted effort** to increase the level of **activity and allocation of resources** with current multi-agency action in the **Central Region** set as a model for other counties. Extensive **public and education** campaigns to **raise awareness** among consumers are ongoing.

Gaps in application and authority persist

- Waves of **action and enforcement** are regularly driven by **fatal incidents** or under **100-day rapid response initiatives**, and while they may achieve **temporary success** in reducing illicit alcohol, the effect is rarely permanent. **Closures of borders** similarly serve to **divert trade** to illicit routes.
- Regulation also hands control of licensing to **local county governments** creating operational **conflicts** and localised pressures in licensing and enforcement.
- According to trade sources, **local officials** and some MPs are **directly involved** in the production of artisanal and illicit alcohol as well as the **issuance of local licences** for production, bottling and retailing of alcohol. A **blind eye** is often turned to illicit alcohol which is seen to provide **local employment** and family earnings, particularly in areas of high unemployment and low income.



The president is driving a public and determined approach to the suppression of illicit alcohol trade

Enforcement and control

The **Alcoholic Drinks Control Act 2010** and later amendments allow for decentralised control of alcohol and the legalisation of homebrews, sets quality standards and the use of standardised packaging.

County and tribal governments under the **Act** have control of local production, know about the illicit trade but are **lax and lenient** in enforcement. Eradication of this industry may **not be in their interest**, as many consume or benefit from this trade.

Changes to the Alcohol Control law in 2020 now allow for the **participation of the KRA** in **licensing** and **distribution** which used to be an **exclusive function** of county governments.

Why be involved in illicit trade?

Poverty is the driving force behind illicit trade with many **households struggling** to pay for food, school fees for their children, living and medical expenses of dependent adults and relatives, or a means of **basic survival** in areas where employment is scarce.

Consumer demand is strong, **penalties** are low and rarely enforced, and few formal **skills** or **resources** are needed to be involved in this trade. The business is **profitable** and provides many with **financial independence** and a cheap and quick way to raise funds.

- **The president** is working to change the culture around alcohol consumption by remaining and encouraging others to remain alcohol-free at work. He is asking community and church leaders to discourage the production, sale and consumption of artisanal alcohol in regard to underage consumers in their local areas.
- Detectives from the **Economic Crimes Unit** undertake raids on private homes when they suspect counterfeiting or smuggling after posing as buyers to intercept consignments.
- Counterfeit stamps from the **Kenya Revenue Authority** or the Ugandan Revenue Authority are regularly found during such raids.
- Recently, the **Kenya Revenue Authority** has increased its activity to curb revenue loss through use of modern technologies and the closure of businesses suspected of illegal trading or criminal activities.

Targeting the manufacturers of illicit alcohol may be more efficient than chasing independent unlicensed bars

The colloquially known “10%” or “return” payments protect producers

The relative ease of **bribing police officers**, avoiding **discovery** or arrest and the **destruction** of brewing equipment, gaining **future protection** from authority raids on production facilities, or as payment for operating unlicensed premises, in or out of hours, motivates producers and sellers to regularly pay bribes.

Senior county security officers and **tribal chiefs** are reportedly the highest paid, with **police officers** the lowest paid but the most frequent collectors of payments.

Ease of concealment and low penalties support growth in trade

Often brewed underground, beside rivers, in forests or in rented houses, homebrew spirits and fermented beverages are **easy to conceal** whether on the ground or up in trees. Brewing and distillation facilities are also **moved regularly** especially when crackdowns on production in the area occur.

Low penalties in local courts **do not deter** producers or traders, with many able to attract **police protection**. Others use scouts or lookouts to watch out for authorities and police visits to the area.

Onerous regulation and taxation discourage business formalisation

Larger producers are efficient in trading, have **financial resources** to protect their businesses and have **access** to well-connected transport and distribution systems, but some are **openly producing** and selling substandard alcohol **without challenge**.

Such is the structure of the illicit industry that many are **not equipped** or interested in **legalising** their businesses, with expensive and **onerous procedures**, high taxation and requirements for formal establishment acting as a deterrent.

Source: Euromonitor International, Trade Interviews, April 2023

Q. Which of the following statements best describes your opinion of these different illicit products?

Q. Do you know how to check if an alcoholic drink is legal?

© Euromonitor International



of consumers believe people should not buy illicit alcohol products, because of health risks



of consumers don't know/aren't sure how to check if an alcoholic drink is legal

“

Not much has been achieved when it comes to the controlling of illicit homebrew consumption. Law enforcers, especially the police, are aiding this as they only take bribes to allow the continuity of the businesses. Bodies that have been accorded the responsibility to check on the licensing of these business have also been compromised by corrupt businesses.

- National Agency/Association “

The multi agency framework is trying to control and enforce the regulations but there is no consistency in enforcement. In most cases, the issue around illicit alcohol is only taken seriously after casualties have been reported from illicit alcohol consumption. There are good policies and regulations, but there is a big challenge when it comes to enforcing the production standards. We still have substandard products in the market and the major challenge is corruption.

- National Agency/Association



Planned progress towards control of illicit alcohol is in place with enforcement supported by private-public partnership engagement

- Over many decades, despite declarations and government campaigns to curb the production, distribution and sale of illicit alcohol, the issue of illicit alcohol remains and has now been identified as the third greatest threat to national security.
- A new coordinated approach, the **National Action Plan to Combat Illicit Trade 2019-2022**, launched in 2019 between private and public sector bodies, has a stated plan and framework structure to tackle illicit trade in alcohol.
- The Inter-Agency Anti-Illicit Trade Executive Forum, with representation from all enforcement agencies and private industry, aims to increase the capacity for identification and interception of illicit trade. The plan has two objectives: increased consumer awareness and understanding of illicit trade and, secondly, better enforcement of consumer protection, trade, intellectual property rights and revenue collection with the sharing of information with international, inland and maritime agencies a core element of the plan.

Approach to Regulation

- | | |
|------|--|
| 2011 | Directive from internal security minister to all law enforcement officers to decisively deal with those selling illicit brews. |
| 2015 | President Kenyatta revokes the licences of many of the nation's bars and destroys their stocks of illicit beverages. |
| 2019 | Mututho Law replaced with strict controls on the number of distributors allowed to import and sell alcoholic drinks, aiming to limit parallel imports of illicit alcohol. |
| 2021 | Kenya elected as representative for African states at Interpol. |
| 2023 | President Ruto launches a multi-agency nationwide crackdown on counterfeit alcoholic drinks and drugs.

NACADA launches the framework for Community Engagement in the Management of Alcohol and Drug Abuse in Kenya. |

KRA works actively in the field to combat illicit alcohol with plans to increase surveillance and enforcement



- The Kenya Revenue Authority (KRA) oversees national revenue collection with responsibility for border control and trade facilitation.
- It recognises that, while 3.1 million workers are formally employed, up to 15 million people, as of 2019, are engaged in the informal sector,* including the illicit alcohol sector. The KRA endeavours to broaden the tax base by targeting the gradual formalisation of this sector.
- Emerging mobile commerce is also a target with mobile-based payments and money transfers rapidly changing the way money changes hands. This is seen by the KRA as an opportunity to interact, collect Digital Service Tax (DST) and increase compliance on VAT and income tax at all levels of production, trade and sales.

Continued formalisation of industry plans in place

The KRA plans to expand the national tax base, improve operations, technology-driven **compliance and investigation**, and provide integrated **border management**, enhanced measures to **combat illicit trade**, improved customer service and a performance-driven and **ethical workforce**.

The KRA faces complaints of **corruption** and **poor morale** across its workforce, delays in **getting information** from **regional offices** resulting in **revenue loss**, large-scale **tax evasion** and **rapid technology changes** that are leading to the introduction of new **processes, procedures** and updated technology and extensive **staff retraining** for effective implementation.

Crackdown on illicit alcohol set to intensify

The KRA proposes to increase its **customs and border control workforce** from 2,163 to 5,708 staff, almost tripling its workforce, by 2024, adding to its **intelligence, investigations and enforcement workforce** and enhancing measures to **combat smuggling, illicit trade and tax leakage**.

In-field operations target the production and use of **fake tax stamps, counterfeiting**, illicit alcohol production facility **closures**, and **confiscations** of liquor targeting known **hotspots** for production such as Nakuru, Kericho, Rift Valley, Tharaka-Nithi, Kiambu, Nyandarua, Kariobangi in Nairobi and close by Athi River, among others.

Elevated interest in clamping down on illicit alcohol makes NACADA the lead coordinating body



- Established in 2001, NACADA is a semi-autonomous state corporation under the Ministry of Interior and Coordination of National Government. It is charged with coordinating a multi-sectoral, inter-agency campaign to mitigate the impact of alcohol and drug abuse.
- It is responsible for implementation of public policy, planning, and coordinating agencies to ensure compliance with nationwide regulation, including the Alcohol Drinks Control Act 2010. NACADA coordinates enforcement activities on licensing of any alcohol-selling outlet in the country but licensing is carried out by the County Liquor Licensing Committees which have the responsibility for vetting, approving and issuing all licences.
- It also has a remit to provide research into the impact of drugs and alcohol and provide public educational communication campaigns, counselling and rehabilitation of those affected by drugs and alcohol.

NACADA coordinates campaign against illicit alcohol

Following orders from the **president**, NACADA, the Ministry of Interior, the National Police Service, the Ministry of Health, the KRA, KEBS, ACA and county governments are all **working together** to improve action against the production, consumption and sale of **illicit alcohol**.

NACADA is **coordinating** the recently launched five-county **Central Region** campaign to **eradicate illicit alcohol**. As part of this joint action, it is warning **officials** that assisting in **illegal trade** will be considered **criminal activity** and will attract **heavy penalties** and/or **prison sentences**.

NACADA has an expanding arsenal of tools

NACADA's remit includes **premises and licensing inspections**, supporting police **raids, arrests, premises closures** and the **impounding** of illicit alcohol. It is also involved in coordinating the targeting of known **smuggling routes** using drone cameras to **monitor and track** suspicious activity in border areas.

NACADA recently launched its framework for community engagement in the management of **substance abuse**. It also provides **training and education** on substance abuse, **inspection, certification and referral services** for **rehabilitation** centres which has been **enlarged** by recent government promises to **open and fund** rehabilitation centres in every county in Kenya.

ACA aims to better protect and undertake IPR monitoring, protection and regulatory enforcement



- Established in 2008, the Anti-Counterfeit Agency (ACA) is a state body acting within the Ministry of Investment, Trade and Industry charged with increasing awareness among consumers and industry of counterfeiting.
- It is also responsible for combatting counterfeiting and involvement in the production or trading of counterfeit goods, and for protection of intellectual property rights (IPR).
- In addition, it coordinates its actions with national, regional or international organisations involved in combatting counterfeiting. It is empowered to seize and destroy counterfeit goods and prosecute businesses and individuals involved in illicit activity.
- The ACA is also involved in research and the production of data-driven planning and policy designed to inform awareness-building capacities and more effective enforcement techniques.

Taking control of IPR enforcement

The ACA plans to move from a **primary focus on enforcement** to a target of greater **operational efficiency, enforcement**, leveraging **technology**, improved protection of **IPR** and a greater capacity to act.

In late 2022, the ACA rolled out its **IPR recordation** (collecting and entering into an electronic database) **process** moving the burden of **monitoring and reporting counterfeit goods** sold in Kenya from **IPR owners** to relying on the ACA to **monitor and enforce IPR regulation** directly. It becomes the responsibility of the **importer to register IPR**, requiring declaration of any IPR related to goods imported.

It plans to **increase its workforce** from its current 250 by adding a further 330 staff to its **recordation service** to provide a **24-hour** service and support.

Effective service provision is the target

The ACA provides services at **Eldoret airport** and **Jomo Kenyatta International Airport** as well as **seven land border stations** at Malaba, Namanga, Busia, Isebania, Lunga Lunga, Moyale and Mandera and has established **baseline studies** of counterfeiting and illicit trade in Kenya in recent years.

It claims responsibility for removing over **KES 1.6 billion in counterfeit goods** from the market between 2019 and 2022.

KEBS works with multi-agency campaigns to root out illicit alcohol production and sales



Kenya Bureau of Standards

- Established in 1974, the Kenya Bureau of Standards is responsible for promotion, regulation and enforcement of defined international quality standards as well as the examination, testing of manufacture, production, processing or treatment of locally produced or imported goods and the control and the use of standardisation marks.
- KEBS is challenged by under-staffing, delays in policy regulation enactment, delayed capital allocation and increased litigation in past years.

Further service development is strategic aim

The organisation's **strategic plan to 2027** is focused on transforming service delivery, technical services, standards development and trade facilitation, particularly for micro, small and medium enterprises (MSMEs).

KEBS continues to grow the **number of SMEs** and **large companies** with certified products and their **traceability** through **international systems**.

KEBS plans, among other things, to provide **greater import and export** inspections, promote **consumer protection** from substandard products, participation in **joint enforcement operations** and staff assignments, greater **process automation** and integration and broader **product testing** and **certification**.

Calls for officials to cease involvement in alcohol trade

KEBS produces a list of **banned alcohol drinks** that have been reported to have caused **fatal or serious harm** to those that drink it.

While KEBS works in **close coordination** with NACADA and the KRA on in-field **raids** and **investigations** of illicit alcohol, **friction with officials** of other bodies, including officials involved in or participating in **alcohol production or sales**, continues. KEBS has recently called for **better legislation** to stop other government **officials interfering with inspection** of alcohol imports and exports at seaports and airports.

Close relationships and contracts for the EGMS system under continuing scrutiny



SICPA, a company based in Switzerland, is a global security provider and adviser to governments, security banks, high security printers and industry – providing secured identification, traceability and authentication solutions and services

- The Kenyan government introduced its tax stamp system, the Excisable Goods Management System (EGMS), a track and trace system provided by SICPA, in 2013 for alcohol and cigarettes, extending it in 2019 to cover non-alcoholic beverages, food supplements and cosmetics.
- In 2019, a QR-based, smartphone digitised tax stamp was introduced that includes a factory flow labelling and verification system; hand-held scanners that allow operators to verify the authenticity of the product; and a smartphone application that allows the end consumer to verify a product's authenticity.
- An enhanced EGMS online app has since been released with advanced security features to overcome the ability to illicitly duplicate serial numbers for use on counterfeit products.
- The rate of production and use of tax stamps is significantly lower than in similar systems in neighbouring countries.

SICPA's Digital Tax Stamp system is deeply embedded

SICPA signs contracts with National governments across countries for use, implementation of SICPA's authentication and traceability solutions. Contracts operate under **5-7-year framework contracts** where prices, **volumes** and terms are **agreed** but may be **renegotiated** when a **political transition** occurs. It is suggested by **commentators** that the renegotiated contracts may be designed to **meet the needs of a new government** and **any intermediaries** involved.

Documentation in SICPA's **2022 contract** shows that any new contract **may not be limited** in terms of years, with technology ownership and maintenance assigned to the KRA with **SICPA** receiving an **exclusive and unlimited contract** to supply security inks, stamps and spare parts.

Immediate review of SICPA systems required

In May 2023, Swiss courts fined SICPA **CHF 1 million** with compensation claims of **CHF 80 million** for convictions of **corporate criminal liability** in connection with acts of **corruption**, including **bribery of senior officials**, in various countries in **South America**.

Concerns have also been raised in **East African** countries about the **high cost of digital tax stamps**. The **East African Business Council** (EABC) suggests that **member states**, including Kenya, should **immediately review** their existing contracts and **justification of costs**, especially due to the varied cost of stamps across the group of countries and product types.

A photograph of a man in a rural setting, possibly a village. He is standing next to a pump handle, and there are several large metal barrels around him. The background shows a thatched-roof building and palm trees. The image is overlaid with a semi-transparent pink banner at the bottom.

Thematic Analysis

Indirect Consequences of Illicit Alcohol Sales



Poverty and Alcohol

Economic hardship and rising legal alcohol prices drive poor and low-income consumers to purchase illicit alcohol available at lower prices.

Government campaigns to curb supply of illicit alcohol do not take into account persistent and growing consumer demand.



Indifference

With high visibility of illicit alcohol in the market, consumers' perception and experience of both illicit alcohol and lack of government regulatory enforcement create a level of indifference among many consumers.



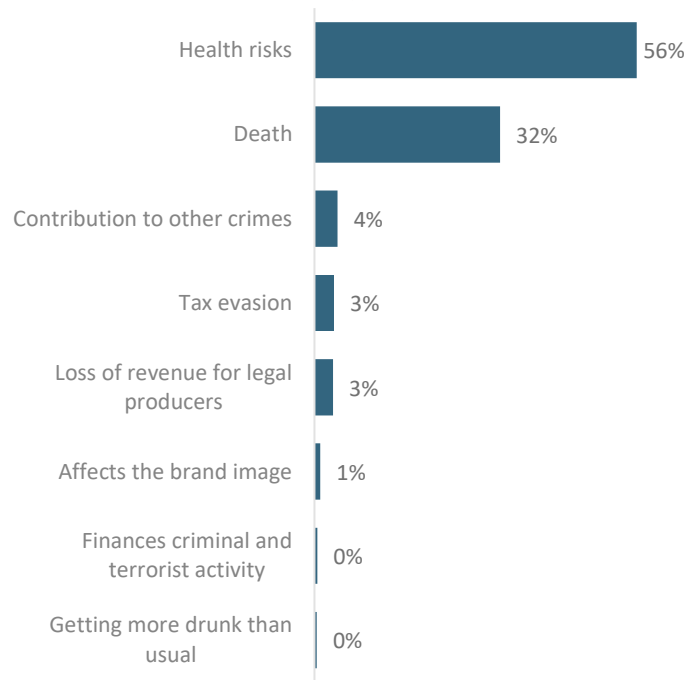
Curbing Trade

Government campaigns to curb the production, distribution and sale of illicit alcohol require a concerted and coordinated approach by many state and third-party players with clear objectives in mind.

Consumers care about how illicit alcohol damages the lives of friends and family but the impact on the economy or tax revenue is of little significance

- The impact of low income, unemployment and economic hardship is visible across Kenya with rural areas particularly prone to poverty as drought impacts agriculture.
- Under such circumstances, many consumers turn to alcohol as a diversion and distraction, with low-income individuals consuming cheaper and lower-quality alcoholic beverages including illicit brews, smuggled and counterfeit alcohol.
- There are increasing numbers of unlicensed retailers selling illicit alcohol including sales from private homes. Unlicensed premises are now establishing themselves across cities, towns and villages as well as in suburban estates, increasing easy access to illicit alcohol.
- A low level of state-sponsored education programmes on the dangers of alcohol and artisanal local brews has some impact but does little to drive home the dangers, impact and sometimes extensive damage caused by excessive illicit alcohol consumption.
- Death, hospitalisation, family break-up, increasing numbers of vulnerable children, and decline in school attendance and educational attainment are all evident in Kenya as a direct result of increased consumption of poor-quality and sometimes dangerous illicit alcohol.

Consumer Concerns about Illicit Alcohol Consumption



Source: Euromonitor International, Consumer survey, April 2023, n = 1,009

Q. In your opinion, what is the most serious consequence of sales of illicit alcoholic drinks?

© Euromonitor International



Indeed, there has been a noticeable increase in alcohol consumption, particularly illicit alcohol, over the past five years in Kenya. This trend has become a significant concern as marital problems and the high cost of living have contributed to stress and, in turn, increased the consumption of illicit brews among low-income consumers. The consumption of such illicit alcohol has had detrimental effects on the social and economic productivity of many young men and women, and in some cases, has resulted in loss of life due to the dangers associated with these unregulated products. Urgent measures are needed to address this concerning trend and mitigate the negative impacts of illicit alcohol consumption on individuals and society as a whole.

Church leader



Source: Euromonitor International, Consumer survey, April 2023, n = 1,009

Q. How strongly do you agree with the following statements?

Q. Which statement best describes your thoughts on how easy it is to find illicit alcoholic drinks in your country?

Q. In your opinion, why do you think people buy illicit products?

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96%

Agree that alcoholic drinks can have harmful effects on people and society if consumed in excess

63%

Agree that illicit alcoholic drinks are everywhere in their country

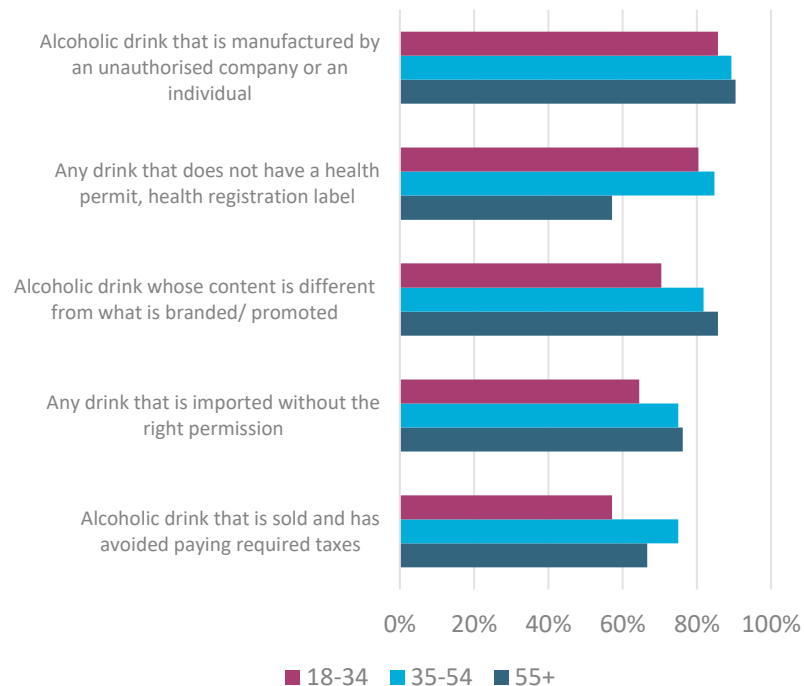
60%

Agree that consumers want lower prices without considering the origin of the product

Consumers knowingly choose to purchase illicit alcohol

- Consumers are fully aware of what constitutes an illicit product in a formal sense: they understand that the sale of unauthorised, substandard-quality and copycat brands are illicit. Non-payment of taxes and duties both by the importer and by the retailer is also understood to be illegal.
- In a more pragmatic sense, consumers know that if they suspect the manufacturer is unauthorised, the product carries no health labels or has suspicious content, then the product is likely to be illegal.
- Awareness of illegality, to some extent, increases with age but in some areas such as familiarity with newer legislation, awareness may be lower among older consumers.
- However, only 7.3% of consumers are willing to admit that they drink artisanal spirits and 11% artisanal beer despite the majority of consumers being fully aware of multiple sources of illicit alcohol.
- Three in every five consumers (60%) declare lower prices as the preference for purchasing illicit alcohol, without consideration of the legality of its origin.

Consumers' Perceptions of Illicit Alcohol



Source: Euromonitor International, Consumer survey, April 2023, n = 1,009

Q. Which of the following describes an illicit alcoholic drink?

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Wide acceptance of the presence and consumption of illicit alcohol across all ages and income levels

22%

As long as they do not harm consumer health, illicit alcoholic drinks are okay
Consumers earning less than KES15,000 per month

The level of **acceptance of consumption of illicit alcohol**, regardless of the potential for significant damage to health, is higher among **low-income** earners than among **high-income earners** but still represents a high level of acceptance overall.

12%

As long as they do not harm consumer health, illicit alcoholic drinks are okay
Consumers earning KES60,000 or more per month

76%

The purchase of illicit alcoholic drinks supports crime
Consumers who are unemployed

Almost a quarter of **unemployed** consumers do not believe that purchasing **illicit alcohol is a crime**, and among **high-income** earners almost one in five also agree.

82%

The purchase of illicit alcoholic drinks supports crime
Consumers in full-time or part-time work

17%

As long as they do not harm consumer health, illicit alcoholic drinks are okay
Consumers aged 18-34

Younger consumers are more likely to believe that **illicit alcohol is okay**, especially if it is harmless to consumer health. **Older adults** are less likely to think so positively about consumption of illicit alcohol.

5%

As long as they do not harm consumer health, illicit alcoholic drinks are okay.
Consumers aged 55+

Source: Euromonitor International, Consumer Survey, n= 1,000, April 2023

Q. How strongly do you agree with each of the following statements? (Strongly Agree & Agree)

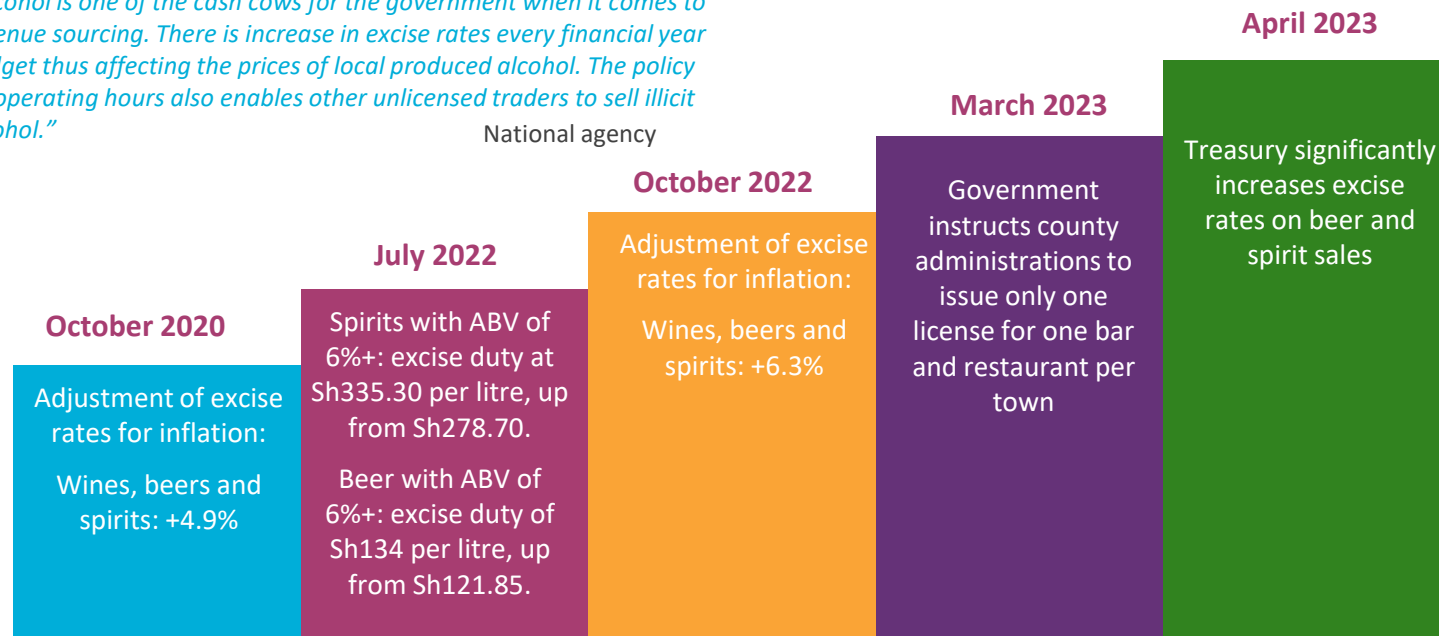
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Continuous excise and inflation related price increases aim to limit consumption

Government strategy is to limit supply of alcohol and influence the rate of consumption through price increases. As a result many consumers turn to illicit alcohol, widely available at affordable prices with little concern for quality standards or legality of its source.

“Alcohol is one of the cash cows for the government when it comes to revenue sourcing. There is increase in excise rates every financial year budget thus affecting the prices of local produced alcohol. The policy on operating hours also enables other unlicensed traders to sell illicit alcohol.”

National agency



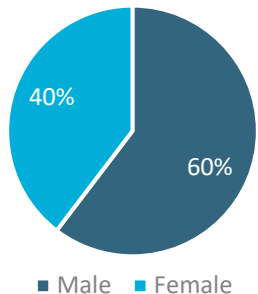
Appendix

List of interviewed industry stakeholders

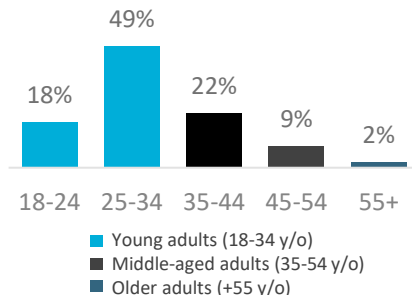
Type	Name
Manufacturer	Kenya Wine Agency
Manufacturer	London Distillers
Manufacturer	Spectra Chemicals Ltd
Manufacturer	East African Breweries Ltd (EABL)
Manufacturer	Linnet Mongina
Government Entity	Tribal chief
Government Entity	Ministry of Internal Security
Distributor	Rwathia
Trade Association	NACADA
Other	Church leader
Distributor	Village Cellar
Government Entity	Kenya National Bureau of Standards
Importer/distributor	Magnum Ventures
Government Entity	Kenya Revenue Authority
Government Entity	Kenya National Police Services

Consumer profile of survey respondents

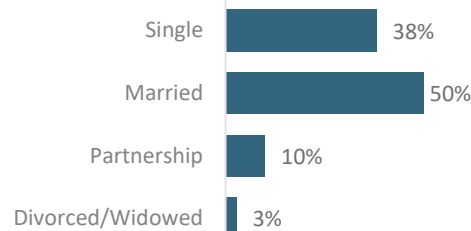
Gender



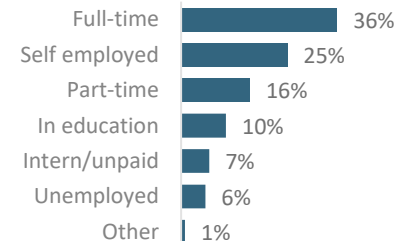
Age



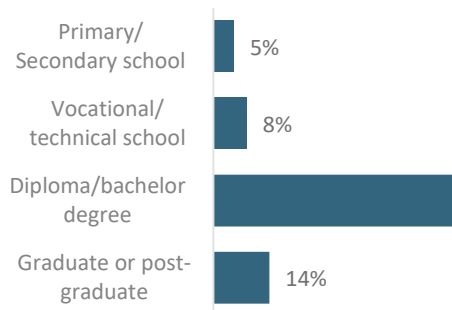
Marital Status



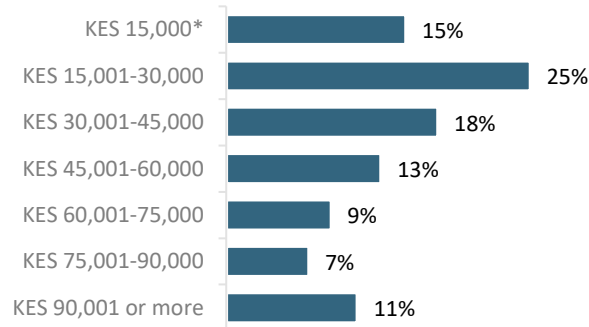
Work Status



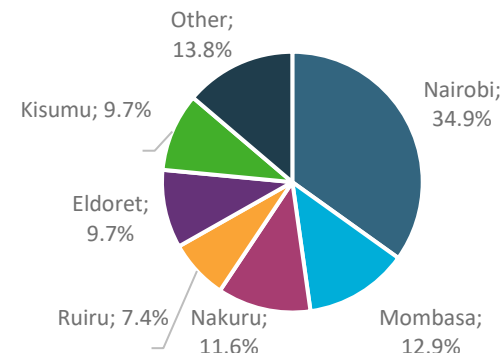
Education



Monthly Income



Township/City

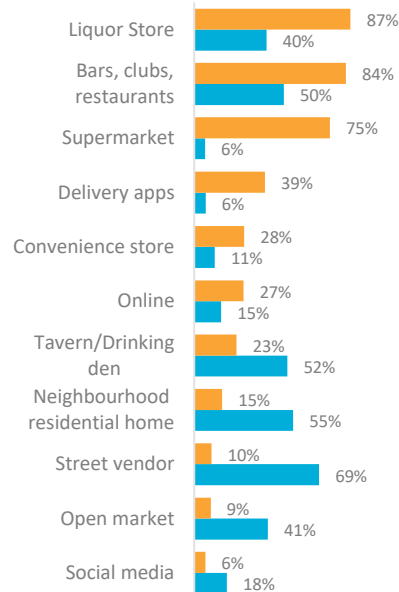


Consumer survey: Attitudes and purchasing channels

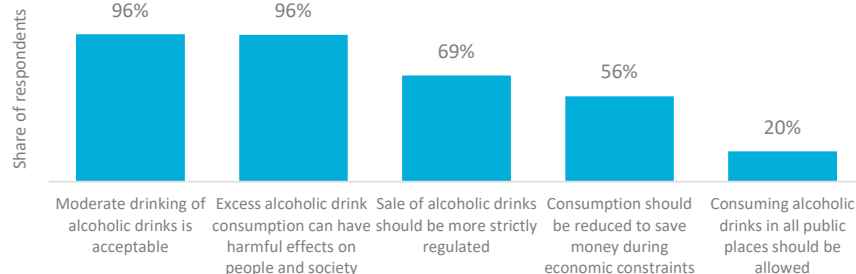
Where to buy licit and illicit alcohol

N = 1,009

■ Licit ■ Illicit

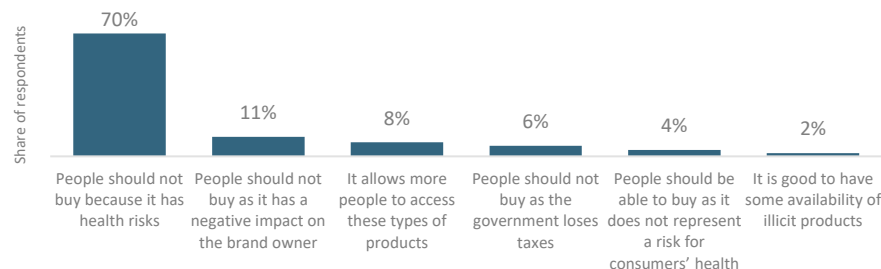


Attitudes to drinking alcoholic drinks: Strongly agree and Agree



N = 1,009

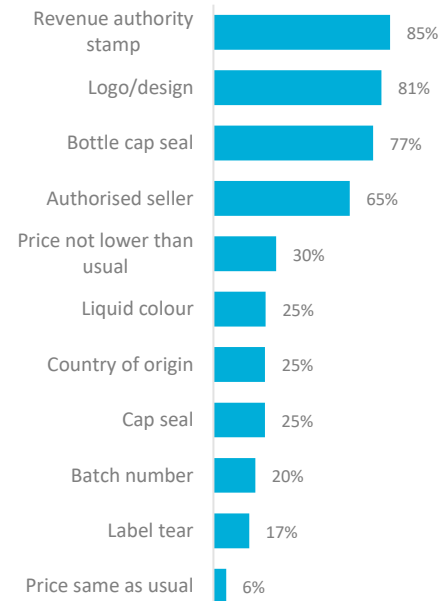
Attitudes to illicit products: Strongly agree and Agree



N = 1,009

What to check to see if alcoholic drink is legal

N = 1,009



National framework for regulation of alcohol sales is strict

Regulatory category	Policy	Status	Implementation
Price	- Alcoholic beverages - Excise tax	Yes Yes	Adjustments for inflation: 10% in budget 2022/2023 Excise duty and tax stamp fees increase in budget 2022/2023
Physical Availability	Licensing - Production - Licensing for retail sales Restrictions - On-premises - Off-premises - Opening hours - Illicit sale Minimum Legal Age - On-premises - Off-premises Restricted consumption in public areas - Health care settings - Educational buildings - Government offices - Sports events - Leisure events	Yes Yes Yes Yes Yes Yes Yes Yes No No No No No	Beer/wine/spirits/other alcoholic beverages Brewer's licence, bottler's licence, wholesale licence, distributor licence, import/export licence, Kenya Bureau of Standards (KEBS) specifications, labelling and health and safety regulations Highly regulated nationally, licensing is carried out by county governments Retail outlet by type licensing system, business and health licences Hotel, restaurant, club, theatre, traveller, railway, steamship licences General retail, supermarket, franchised retailer, temporary licences Restrictions lifted in October 2022 Fines for selling illicit alcohol, alcohol that does not meet quality standards or operating an unlicensed outlet Supplying alcohol to a person under 18 years is an offence subject to a fine or prison sentence 18+ 18+
Marketing	- Alcohol advertising - Product placement - Alcohol sponsorship - Sales promotion	Yes No No Yes	15% tax on fees charged by television, print media, billboards, and radio stations for advertisements Restricted to settings for consumers over 18 years
Drink-driving	- Blood alcohol concentration limits (in g/dl) - Random breath testing	No No	Subject to the Traffic Act: 0.35 grams per litre of breath or 0.8 grams per litre of blood
Sobriety	- Disorderly conduct - Sale of alcohol to drunk or disorderly person	Yes Yes	Drunk or disorderly in public place may be arrested without warrant subject to a small fine or prison sentence Categorises as an offence

Thank you

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