



CHAPTER

3

LICENSING & SALE



3.1 Introduction

3.1.1 Policy issues

The Commissioner, with due regard to requirement, public order, health, safety and other factors as he thinks fit, fixes the number of retail sales outlets, popularly known as A-4 shops, to be established in an area/locality. There are approximately 6500 shops in the State which remained constant during the period of audit. The process of their leasing is governed by the AP Excise (Lease of Right of Selling by Shop and Conditions of Licence) Rules, 2005.

The Commissioner also issues instructions from time to time for fixing the minimum lease amount expected, which is commonly known as upset price. The basic criterion introduced in 2001-02 for fixing the license fee was the number of people a sale outlet is expected to serve. Since then, the commonly followed practice for fixing the upset price was to raise the prices every auction cycle¹⁵ by a certain *per cent* over the lease amount fetched during the previous cycle. For example, the lease amounts were raised by 10, 15 & 15 *per cent* for the cycles 2006-08, 2008-10 & 2010-12 over the respective previous cycles. After deciding the upset price, the Commissioner issues auction notice for licensing the sales outlets.

The Prohibition and Excise Superintendents (P&ESs) issue licenses for sale in retail shops and military canteens. The Commissioner sanctions licenses for all other purposes such as manufacturing of spirits and wines, running Bars, Clubs and also issues occasional or special licenses. The Collector, who is responsible for the Excise administration at the District level, holds auctions for sale of retail shops and reviews the excise revenue collections and exercises powers under the Revenue Recovery Act in regard to collection of excise arrears. Successful bidders are issued licenses. They are allowed to maintain an average of 23 *per cent* margin over the sale price. In all these matters the P&ES of the District assists the Collector. The Prohibition & Excise Inspectors are in charge of circles.

3.1.2 Marketing

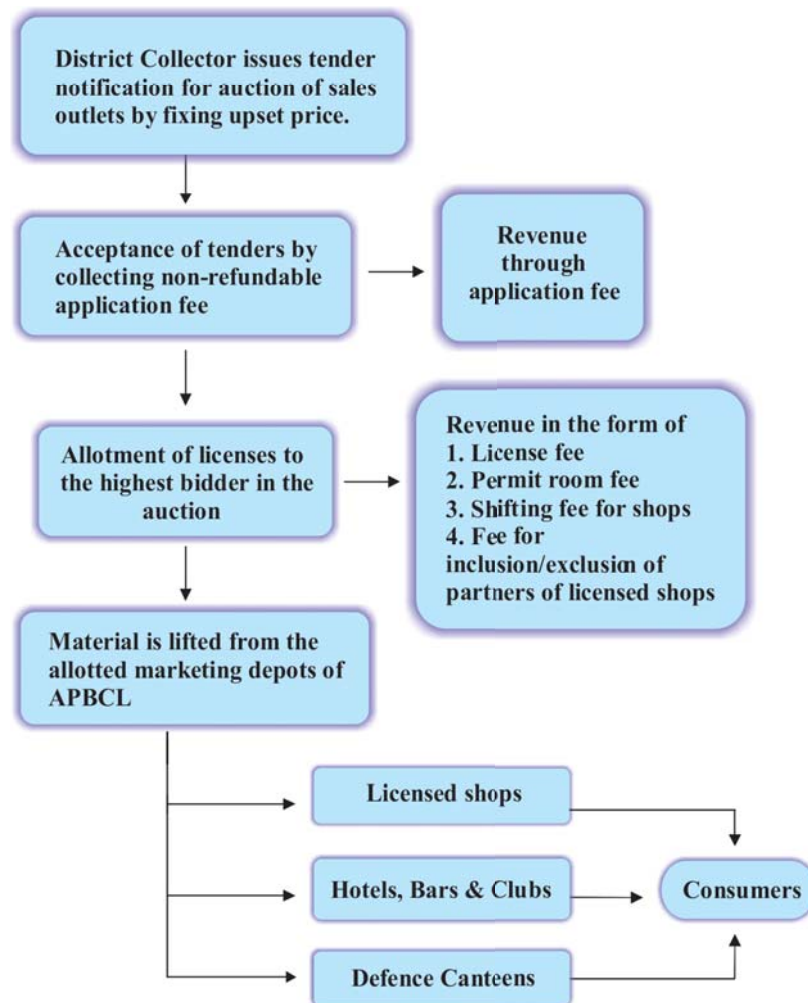
The Andhra Pradesh Beverages Corporation Limited (APBCL), a wholly owned Company of the Government of Andhra Pradesh, is conferred with the exclusive privilege of conducting wholesale trade in IMFL since 1994 throughout the State through its 36 depots spread over in the State. The Company procures IMFL on rate contract basis from the distilleries across the country through open tendering and supplies to the licensed retail shops duly fixing the issue price and Maximum Retail Price (MRP) after adding their profit margin as a percentage, which ranged between 15 *per cent* and 43 *per cent*. The issue price includes Value Added Tax (VAT) @ 70 *per cent*.

Licensed sale outlets/bars/hotels/clubs etc., buy the required quantities from the Corporation's depots.

¹⁵ Yearly auction followed till 2005-06. Since 2006, biennial system is being followed.



The following chart depicts the auctioning process and various types of revenue accrued at various stages of this exercise.



3.1.3 Rise in tender prices

Notwithstanding the fact that the number of sales outlets remained frozen for the last several years, liquor trade is on a high in the State. To illustrate, the Department had received ₹ 6990 crore on account of license fee for the excise cycle 2010-12 as against ₹ 3182.04 crore received for the excise cycle 2008-10. The rise is 91 *per cent* more than the projected (₹ 3659.35 crore) collection with the revised upset price. Followed by the 2010-12 cycle auction, it was reported in the media that a village (Nadikudi) in Guntur district made the highest bid of ₹ 5.21 crore for a shop which indicates the magnitude of rise in the trade. Reportedly, during this auction, across the state, there were at least 100 bids between ₹ 3 crore and ₹ 4.5 crore and nearly 45 bids above ₹ 4.5 crore. While slump in the real estate market in the State



could be one possible reason for this growth, the factor of increase in the purchasing power of the rural masses through employment guarantee programmes cannot be ruled out.

The following table depicts lease year wise increase in upset price and the difference between the expected and fetched revenue during auctions.

Sl. No.	Lease year	% increase in upset price over the previous cycle	Revenue (₹ crore)		Actual percentage increase
			Expected	Fetched in auction(s)	
1.	2006-08	10	1,364.00	1,674.70	22.77
2.	2008-10	15	1,894.85	3,182.04	67.93
3.	2010-12	15	3,659.34	6,990.00	91.01

Source: Figures obtained from Commissioner of Prohibition and Excise.

Despite upward revision in the upset prices, the successive auctions fetched higher revenue than expected. In this backdrop, we noted the following shortcomings in the process of licensing and sale of liquor through the licensed outlets, registered Bars and Clubs.

3.2 Upset price/lease prices not in line with the sales potential

In the present system, the Department does not factor in the potential turnover of the outlets for fixing the upset price. We noted huge variations between the price fetched in auctions and the turnover of licensees in terms of liquor lifted by the retail outlets and the margins they gained. It is also pertinent to mention here that sometimes the Department fails to auction the outlets at the expected prices and tends to revise downward the upset prices and go for re-auction. This delayed settlement too had a revenue implication as explained in detail at para 3.2.2. This paradox points out that the relationship between the sales potential and upset price/leased amount needs a re-look.

The following table illustrates the extent of variations noted in respect of Hyderabad city, which had over 207 outlets for the excise cycle 2008-10. Similar trend in respect of other outlets in other districts of the State also cannot be ruled out.

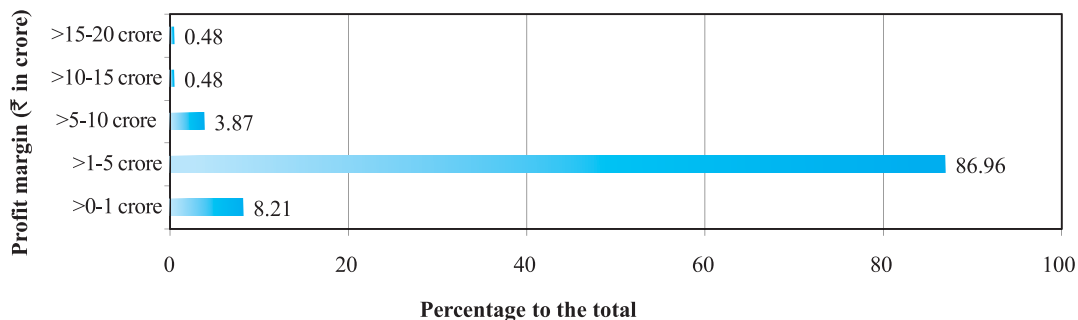
Total No. of outlets	Upset price fixed (₹ crore)	Leased amount (₹ crore)	Value of material lifted from depots (₹ crore)	Margin ¹⁶ 23% (₹ crore)	Difference (5-3) (₹ crore)
(1)	(2)	(3)	(4)	(5)	(6)
207	118.14	180.82	1,661.13	382.06	201.24 (111%)

Source: Figures obtained from APBCL and DC, Hyderabad.

¹⁶ Margin permitted to be maintained by lease holders which is over and above the issue price of APBCL.



As indicated above i.e. bidden prices/lease amount, the licensees could get about 111 *per cent* return on their investment. Even after taking into account establishment expenditure towards rental, electricity, labour charges and municipal taxes/fees the profit margin would remain high. Analysis of profit margin indicates that the profit margin per outlet for the lease period works out to ₹ 1-5 crores in about 87 *per cent* of the outlets as detailed below.



The phenomenon of huge variation between the leased amount and the profit margins being maintained by the lease holders has the following implications.

- Unnoticed loss of revenue to the State as the actual sales taking place from the leased outlets was not factored in for fixing the upset price, at least in respect of the outlets with heavy sales. This is on the principle of 'more sales more license fee'.
- Lease holders buying stocks in large quantities from the depots and selling/arranging for sale through the unauthorised outlets. The crime of unauthorised sale of liquor is rampant in the State as evident from the fact that Department had booked 1,002 cases in about nine months in 2010 as discussed in detail in Chapter-IV of the report.
- Cartel formation in bidding/tendering by offering sub-lease to the potential bidders/tenderers for sale through unauthorised outlets. This will lead to monopoly and result in fetching lower lease prices than their actual potential.

On this being pointed out the Government replied (July 2011) that upset price was only to insulate the price not to go below certain level. It was further stated that though the upset price was fixed at certain low level, actual amount fetched was far more than the expected price. The Government also stated that they had faced problems in their efforts made in the past to link license fee to the volume of lifting. Nevertheless, the Government agreed to get a study done by APBCL or Andhra Pradesh Industrial & Technical Consultancy Organisation regarding the feasibility of such a linkage.

Considering the huge margins being maintained by certain lease holders, and the attendant issues of sales through unauthorised outlets as detailed at para 3.4.1.2, there is a need to review the present system of determining the upset price oblivious of their sales potential.



3.2.1 Short fixation of upset price

Instructions were issued from time to time for fixing the upset price of sales outlet by increasing the lease amount fetched in the last lease year by 10, 15 & 15 *per cent* for the lease years 2006-08, 2008-10 and 2010-12 respectively. Auctioning authority shall be the District Collector.

We noted in five¹⁷ test checked offices of P&ES that in five cases, the shops were not disposed off in the first auction as the bids received were lesser than the upset price fixed. These shops were re-auctioned after a lapse of certain period by proportionately reducing the upset price. In the next lease year i.e., for the regular auction, the upset price was fixed on the basis of amount fetched for proportionate period of lease, instead of taking into account the total amount that would have fetched for the entire period of lease.

In four cases¹⁸ we noted that the upset price was fixed without taking into account the resultant loss/amount fetched from the first bidder.

As per Rule 20 of AP Excise (Lease of Right of Selling by Shop and Conditions of License) Rules, 2005 in case of failure to pay 1/6th of the lease amount and/or furnish the FDR/BG as required under Rule 19 within the time specified, the auction shall be cancelled by the auctioning authority and amounts already paid shall be forfeited to the Government and the right of sale may be given to the next highest tenderer if the tender amount is equal to or higher than the upset arrangements made at the risk of the original auction purchaser, who shall continue to be liable in respect of the lease till the next auction purchaser takes over or re-auction is carried out as the case may be.

Though it is a fact that the re-auctions had fetched more license fee than the pre revised upset price, the fact remains that the principle of fixing the upset price vis-à-vis the policy existing in place i.e. fixing the upset price based on the amount fetched in the previous cycle plus, certain *per cent* above this amount was not followed.

This practice is fraught with the risk of bidders not bidding during the first auction through cartel formation and bidding during the re-auction in order to get the license at the reduced price.

The Government in their reply (July 2011) while stating that there were no reported losses of revenue due to short fixation added that the prices could have been fixed erroneously. It was also assured that the upset prices would be fixed strictly in accordance with the guidelines.

¹⁷ Chittoor, Nagarkurnool, Karimnagar, Vijayawada and Ongole.

¹⁸ Gazette Sl. No. 289 of Vijayawada, Gazette Sl. No. 155, 157 & 158 of Nagarkurnool.



3.2.2 Non-exercising of option to run retail outlet through APBCL

As per Rule 14(2) of AP Excise (Lease of Right of Selling by Shop and Conditions of License) Rules 2005, during the auction of retail outlets by tenders, if it is found that the highest tender offered is less than the upset price notified, the auctioning authority may provide an opportunity to the highest tenderer to increase his offer to an amount higher than the upset price and accept the offer. If he is not willing to increase his offer, the second highest tenderer may be given a similar opportunity. If both the tenderers are not willing to increase their offer higher than the upset price, all the tenders in respect of that shop shall be rejected and put to re auction.

As per Rule 21(1) of AP Excise (Lease of Right of Selling by Shop and Conditions of License) Rules, 2005 the auctioning authority with the approval of Commissioner of Prohibition and Excise may permit the APBCL or a licensee of a IMFL manufactory/ brewery under the Act to open outlets for the sale of IMFL and FL in such areas/localities where the privilege of sale by shop could not be disposed off in the auction or when a lease already granted is cancelled and the same could not be re-auctioned for any reason.

We noted during the audit of P&ES, Nellore that in two cases where the licenses of retail outlets were cancelled during the currency of the lease (2008-10), these outlets were re-auctioned for the balance period and confirmed in favour of auctioneers who had quoted their bids lesser than the upset price which resulted in default of ₹ 11.65 lakh which was not recovered from the original auction purchaser.

Similarly in 11 cases under jurisdiction of

P&ES, Nandyal the retail outlets were re-auctioned (2006-08) for an amount lesser than the upset price as a result of which an amount of ₹ 48.27 lakh was forgone by the Government.

When the auction purchasers were not willing to increase their bid more than the upset price, despite best efforts made by the auctioning authorities, the Department should have made arrangements to open APBCL outlets as provided in the rules instead of allotting the outlets at throw away prices in contravention of rules.

The Government replied (July 2011) that it was not viable to run the APBCL outlets in small villages.

The Government reply is not convincing since they had not approached the APBCL for running of these retail outlets, thereby not following the procedure envisaged under the Rules.

3.3 Licensing process

The Prohibition and Excise Superintendents award licenses in favour of the successful bidders on approval by District Collector. We noted the following shortcomings in the licensing process.





3.3.1 Highest bid not considered

As per Rule 14 of AP Excise (Lease of Right of Selling by Shop and Conditions of License) Rules, 2005 and auction conditions notified from time to time, no person shall be entitled to obtain lease of more than one shop. It further states that in the event of a person being successful auction purchaser of a shop, all other tenders filed by him in respect of any other shop/shops shall automatically become invalid.

There are no provisions in the auction conditions that in cases where a single tenderer bids the highest amount for more than one shop, allotment is made in such a way that the highest bid offered for all the shops put together is considered so that maximum revenue accrues to the Government. Owing to this, we noted a case of rejection of the highest bid by the P&ES, Nagarkurnool for the auction cycle 2010-12. The case is explained below.

Shop No.	162	163	164
Quote of 'X' (₹ lakh)	66.32	76.32	78.32
Highest bid of others (₹ lakh)	62.83	66.01	63.00
Decision taken	Offered in favour of X	Offered at ₹ 66.01 lakh	Offered at ₹ 63.00 lakh
Impact	Nil	Loss of ₹ 10.31 lakh revenue	Loss of ₹ 15.32 lakh revenue

The Department had opened and awarded all the bids on the same day and nothing prevented them, on a comparative analysis, to allot the bids to the highest bidder/s. The above cited case is only an example and there could be several such cases passing through in every auction process. In absence of appropriate provisions to address such issues, the State had to suffer revenue losses.

The Government replied (July 2011) that the audit observation needs consideration and directed the Commissioner to work on amending the rule in question suitably. We are of the opinion that the procedural deficiency pointed out can be corrected by the Department by suitable instructions to the Departmental authorities.

3.3.2 Irregular adjustment of EMD towards resultant loss

As per Rule 20 of AP Excise (Lease of Right of Selling by Shop and Conditions of License) Rules, 2005 in case of failure to pay 1/6th of the lease amount and/or furnish the FDR/BG as required under Rule 19 within the time specified, the auction shall be cancelled by the auctioning authority and amounts already paid shall be forfeited to the Government and the right of sale may be given to the next highest tenderer if the tender amount is equal to or higher than the upset arrangements made at the risk of the original auction purchaser, who shall continue to be liable in respect of the lease till the next auction purchaser takes over or re-auction is carried out as the case may be.

We noted during the audit of two offices of P&ES Tirupati and Anantapur that the first bidder failed to attend/ pay 1/6th lease amount on the day of auction and therefore the shops were allotted to the second highest bidder, which resulted in a loss. In these



cases, the Department had quantified the net loss amounting to ₹ 4.03 lakh by excluding the EMD which was required to be forfeited to the Government.

The Government replied (July 2011) that they were adjusting the EMD against the resultant losses and resultant loss was not defined in the Rules. It was further replied that the bidder was already penalised through loss of the EMD and he could not be penalised further.

The reply is not acceptable because as stipulated in Rule 19 & 20(1) the EMD shall be forfeited first and then the right of sale may be given to the next highest tender. The resultant loss, if any, shall be recovered from the first bidder. Even in the situation where there was no loss to the Government, EMD was not to be refunded but forfeited.

3.3.3 Delay in pursuing realization of bank drafts and consequential loss of interest

As envisaged in Andhra Pradesh Financial code Volume-I read with Andhra Pradesh Treasury Rules, Government officials who are entrusted to receive Government moneys shall immediately remit the same into the Treasury/Bank for effecting credit to Government Account. Further, as per Section 65 of the AP Excise Act, 1968 read with Rule 3 of AP Excise (Levy of interest on Excise Arrears) Rules, 1968, interest @18 per cent p.a. shall be charged on delayed payment of excise revenue.

We noted during the audit of office of the P&ES, Eluru that followed by the auctions held on 16.06.2008 and 25.06.2008, all the successful tenderers for the lease year 2008-10 paid a sum equal to 1/6th of the lease amount by way of Bank Drafts (₹ 17.20 crore) on the day of auction itself, as required under the provisions. Further, the Bank Drafts amounting to ₹ 17.20 crore were remitted immediately into the State Bank of India, Eluru branch for realisation and

giving credit to the Government account. Though bank Drafts were pre-paid money, actual credit to the Government account was affected by the bank authorities with a delay ranging from 22 to 57 days as detailed in Annexure-II. The Department had reminded the bank only on 16.07.2008 i.e. after one month, which resulted in loss of revenue to the tune of ₹ 24.92 lakh besides affecting the ways and means position of the Government.

The Government replied (July 2011) that instructions would be issued to accept Demand Draft/Pay Orders in future drawn in favour of District Collector payable in the same district or in favour of Commissioner payable at Hyderabad so as to avoid the delay.

3.4 Sales outlets operating in the vicinity of educational and religious institutes

The P&ES, based on the application received, gets a verification report from the concerned SHO to verify the eligibility, which includes proximity to educational/ religious institutions. Followed by this, P&ES issues the license.

Various provisions under the State Excise Law/Rules as detailed below stipulate maintenance of certain distance between the licensed sale outlet and educational institutes, religious institutes, hospitals and Highways.



Sl. No.	Nature of the institute	Minimum distance prescribed (Meters)	Provisions
1.	Recognised educational institutes	100	Rule 27 of AP Excise (Lease of Right of Selling by Shop & Condition of License) Rules, 2005 and Rule 6(ii)(iii) (iv)&(v) of AP Excise (Grant of License of Selling by Bar and conditions of license) Rules, 2005.
2.	Registered place of public worship	100	
3.	National Highways	50	
4.	Hospitals	100	

As per explanation under above Rules, “Educational Institutions” means any Primary school, Middle School and High School recognised by the State Government or Central Government, Junior College or any College affiliated to any University established by law and “Hospital” means any Hospital which is managed or owned by a local authority, State Government or Central Government or any private Hospital having a provision of atleast 30 beds. It is the primary responsibility of the Station House Officer to check the physical location of proposed sales outlet/bars so as to ascertain that they do not exist within the restricted distance.

We noted from the license and correspondence files of five¹⁹ test checked offices of P&ES that Bar/Shop licenses were granted in contravention of above Rule as detailed below.

Sl. No.	P&ES Office	Name of the Bar/Shop (M/s)	Where was it located?	Approximate distance (km) between shop/bar and Excise Station
1.	Chittoor	Sprintz Restaurant & Bar	Right on the National Highway of Tirupathi-Bangalore (NH4).	5
2.	Visakhapatnam	Jagadamba Wines, Visakhapatnam.	By the side of a 60 bedded Hospital (Sidhartha Hospital).	3
3.	Vijayawada	Mana Garden Restaurant & Bar, Vijayawada.	20 meters away from a school (Akshara International School). See box for more details.	3
4.	Tenali	Lakshmi Ganpathi Restaurant & Bar, Door No. 22-1-54, Gandhinagar, Tenali.	60 meters away from a temple (Sri Pothuluri Brahamendra Swami Temple).	0.5
5.	Saroornagar	Blue park Restaurant & Bar, Anupuram, Kapra Municipality.	Near a school. The distance between the School and upto the entrance of the Bar at the ground floor was 99 meters only, whereas the distance was calculated upto the first floor of the Bar.	9

Source: Figures obtained during test check of above P&ES offices.

¹⁹ Chittoor, Saroornagar, Tenali, Vijayawada and Visakhapatnam.



Although many of the above shops/bars were located near the concerned Prohibition and Excise Stations the Excise officials failed to monitor this aspect.



Co-existence of Blue Park Restaurant & Bar and Bhashyam Public School at Saroornagar in Hyderabad

Grant of license to outlets near the schools and hospitals

1. Bar license was granted to “M/s Mana Garden Restaurant & Bar” situated at Door No.8-186/1, Kanuru Village, Penamaluru Mandal, Vijayawada, which was located at a distance of 20 meters from Akshara International School. The school had a capacity of over 700 children with residential facility. The said Bar license was renewed from time to time and the last renewal was up to 30.06.2011.
2. License was granted to Jagadamba Wines, Visakhapatnam, for the establishment of liquor sales outlet, which was adjacent to a 60-bedded hospital viz., Sidhartha Hospital, contrary to the prescribed distance of 100 meters.

The Government assured (July 2011) to verify all such cases and cancel the licenses in cases of violation of Rules.

3.4.1 Functioning of licensed outlets

The Department keeps a strict vigil over the functioning of the licensed premises from time to time with regard to their hours of working, quality control of material sold and several other obligations to be met by them. The Department had a separate enforcement wing to fulfill these responsibilities. While the manner in which they are monitored and the outcome thereof are discussed in detail in Chapter-IV of the Report, we present here those issues that are related to licensing and revenue collection.



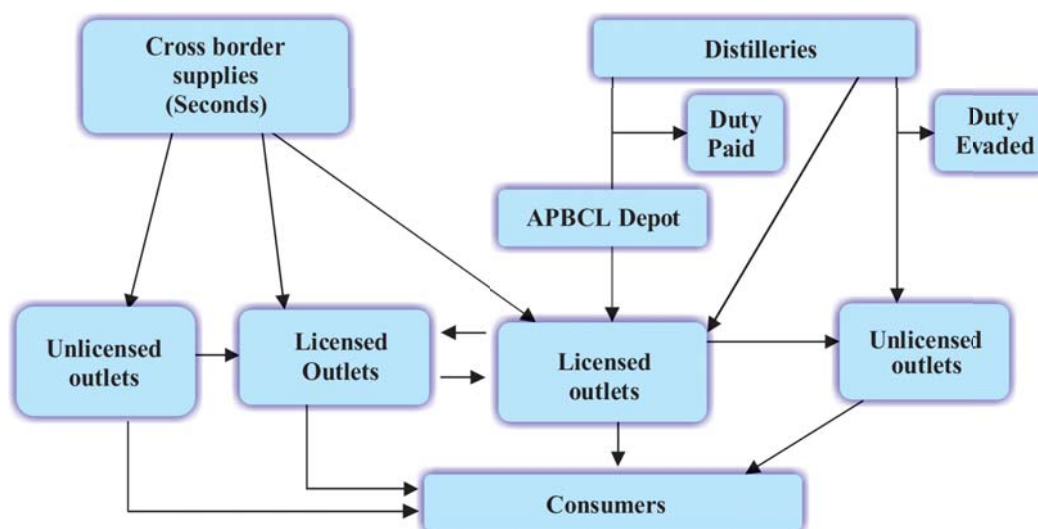
3.4.1.1 Distribution of liquor

The Andhra Pradesh Beverages Corporation Limited (APBCL), a wholly owned Company of the Government of Andhra Pradesh, is conferred with the exclusive privilege of conducting wholesale trade in IMFL since 1994 throughout the State through its 36 depots spread over in the State. The Company procures IMFL on rate contract basis from the distilleries across the country through open tendering and supplies the same to the licensed retail shops duly fixing the issue price and Maximum Retail Price (MRP) after adding their profit margin as percentage, which ranged between 15 *per cent* and 43 *per cent* depending on the issue price of liquor. The issue price includes Value Added Tax (VAT) @ 70 *per cent*. The licensed sale outlets/bars/ hotels/clubs etc., buy the required quantities from the Corporation's depots.

We noted several deficiencies in this regard which are discussed below:

3.4.1.2 Unauthorised sales through licensed outlets

Handling evasion of duty on potable liquor is a major challenge. Evasion is possible at various points of production and distribution chain. Controlling evasion at production stage is the responsibility of DO. However, sale through unlicensed outlets, commonly known as 'belt shops', is an enforcement issue and a major threat to the supply chain as it leads to loss of license fee. The belt shops may not have a prominent banner and board but they may be operated from any premises such as cool drink shops, grocery shops and other petty vending shops. As a result, liquor is taken to the doorstep of the consumer with attendant social ramifications. As detailed below, license holders in order to recover heavy amount of license fee paid by them during auctions, tend to lift more material and sell them through belt shops to increase their sales and the profit margin thereof. In addition, cross border supply of non-duty paid liquor (in other States) also enters the State supply chain.





To safeguard against this, Rule 41 of the AP Excise (Lease of Right of Selling by Shop and Conditions of License) Rules, 2005 stipulates that the shop Lease holder shall sell only duty paid IMFL and Foreign Liquor (FL) purchased from the allotted depot. As per Rules 48 and 49, the Lease holder shall maintain daily account of IMFL and FL received and sold and send monthly statements and returns to the P&ES and Prohibition & Excise Inspector concerned before 5th of the following month.

As a part of the audit, we purchased different brands of 20 IMFL liquor bottles randomly from various licensed outlets of the State as detailed at the Annexure-III.

The objective of buying these samples was to check their authenticity with regard to their source of supply and the quality of the contents. Therefore, we sent them to APBCL, Hyderabad for checking the supply particulars and to the Government laboratories for quality check.

While the laboratories had certified the purity of the contents, the Corporation did not certify their source of supply in all these cases. Depending on the nature of their remarks, we believe that there are certain risks associated with these supplies as detailed below.

Sl. No.	Response of the Corporation	Percentage of bottles	Probable cause/Risk involved
1.	Stocks were not issued by the Corporation	15	- Bottles might have been taken out of the distillery escaping excise duty and other taxes. - Loss of revenue.
2.	Issued to a different outlet	35	- Suppression of actual sale - Sale of liquor more than permissible quantity. - Loss of revenue towards Income Tax

This was brought to the notice of Department in February 2011 and to the Government in April 2011.

The Government replied (July 2011) that the EALs in question would be traced to their origin and a report would be sent to audit.

3.4.1.3 Sales outlets do not issue receipts

As per Consumer Protection Act, 1986 every consumer has a right to get a receipt for the purchases made. We noted that the receipts are not issued by the sales outlets throughout the State. We experienced the same when the bottles were purchased from authorised outlets to pursue the audit checks indicated at the para 3.4.4. As a matter of fact this issue was flagged during the entry conference we held with the Commissioner in November 2010. While concurring with the practice in vogue, the Commissioner felt that there was no loss of revenue to the State on this account and however agreed that it is a fundamental right of the consumer to get the receipt.

The Government replied (July 2011) that directions would be issued to the departmental officers to enforce the Rule.



3.4.1.4 Non-revision of Nowkarnama fee

Nowkarnama is a fee paid as per Rule 44 of AP Excise (Lease of Right of Selling by Shop and Conditions of License) Rules, 2005 by the sales outlets for employing a male person for sale of liquor. He is appointed with prior permission of the P&ES on payment of ₹ 100. Further, an application fee of ₹ 5,000 (enhanced to ₹ 10,000 from 2008-10) is also charged.

We noted during audit of office of the Commissioner that although the biennial lease system was introduced from 2006-08, Nowkarnama fee remained at ₹ 100 per person even though the lease period was for two years. It is further noted that the application fee of the shops which was ₹ 5,000 up to 2005-06 was also enhanced to ₹ 10,000 from 2008-10 as the lease year was increased to two years from one year. Thus, due to non enhancement of Nowkarnama fee proportionately (₹ 200) the Government had

forgone ₹ 39.57 lakh for 2006-08 and 2008-10 in respect of 6,596 shops in the State where each shop was employing not less than 3 persons as nowkars. The details are as follows.

Sl. No.	Year	No. of Shops	Total no. of bearers @ 3 persons per shop per day ²⁰	Nowkarnama fee forgone @ ₹ 100 per person (₹ lakh)
1.	2006-08	6596	19,788	19.78
2.	2008-10	6596	19,788	19.78
	Total			39.57

The Government replied (July 2011) that they had enhanced the fee from the existing ₹ 100 to ₹ 1000.

3.5 Functioning of Bars

There are about 1500 Bars in the State. While Hyderabad district had the distinction of having the maximum (224) number of bars, Medak district had the least number (6) of bars. The top five districts in terms of the number of the bars juxtaposed with the population that they served as of June 2010 are given below.

Sl. No.	City / District	Number of bars	Rank in terms of population
1.	Hyderabad	224	5 th
2.	Guntur	188	2 nd
3.	Vijayawada	160	3 rd
4.	Rangareddy	142	9 th
5.	Visakhapatnam	134	4 th

Source: Figures obtained from Department and Directorate of Economics and Statistics.

²⁰ As per Section 22 of AP Shops and Establishment Act, 1988 one should not work for more than seven hours in a day or 42 hours in a week.



Bars are subjected to several regulations, which unlike retail outlets are unique and distinct to them only. We noted the following shortcomings in the manner in which they were licensed and subjected to various tax regulations.

3.5.1 Additional License Fee payable by Bars with additional enclosures

As per Rule 10 of AP Excise (Grant of License Selling by Bar and Conditions of License) Rules, 2005, the enclosures (“Enclosure” is defined as an area of consumption of liquor, which is contiguous in utility for consumption. If one consumption enclosure is separated from another enclosure by non-contiguity and interposition of areas of different utilities other than consumption of liquor, it attracts additional license fee) for consumption of liquor, which are not contiguous, shall attract levy of an additional license fee at 10 *per cent* for each such additional enclosure. DC is the license granting authority.

We noted that in 17 test checked offices²¹ of the P&ES, ten *per cent* of additional license fee amounting to ₹ 449.93 lakh was not levied on Bars having non-contiguous consumption enclosures. This resulted in loss of revenue of ₹ 4.50 crore.

The Government replied (July 2011) that in five cases out of the 27 cases pointed out, ₹ 20.29 lakh had been collected and assured to cancel licenses in cases of violation of rules.

3.5.2 Misuse of licenses

As per conditions of license under Rule 4 of AP Excise (Grant of License of Selling by Bar and Conditions of License) Rules, 2005, license is not transferable. However, as per Rule 17 *ibid*, no licensee shall except with the sanction of the Commissioner transfer his license to any other person. The Commissioner may allow such transfer after collecting 10 *per cent* of the license fee provided that instead of permitting a license to be transferred, the Commissioner may require the transferee to take out a fresh license on payment of fees.

We noted during audit of office of the P&ES Secunderabad that in respect of M/s Blue Water Bar & Restaurant and M/s Ohris 100 Degrees Bar & Restaurant, the licensees misused their licenses by allowing others to run the bar/restaurants unauthorisedly for an agreed consideration. However, P&ES failed to notice this illegal transfer/misuse of license.

Based on the evidence of lease deeds shown by Audit during the exit conference (08.07.2011), the Government assured to verify the matter.

²¹ Bhimavaram, Eluru (2 cases), Gazuwaka, Gudur, Guntur, Kadapa, Kakinada, Kurnool, Mancherial, Markapur, Parvathipuram, Proddatur, Rajahmundry, Rajendranagar, Sangareddy, Saroornagar, Secunderabad, Srikakulam, Tenali, Tirupati, Vijayawada, Visakhapatnam (2 cases), Vizianagaram and Warangal (2 cases).



3.5.3 Short collection of license fee

As per Rule 10(3) (b) (iv) of A.P. Excise (Grant of License of Selling by Bar and Conditions of License Rules) 2005, proportionate license fee for which license granted between 1st April and 30th June was $\frac{1}{4}$ of the annual license fee.

As per G.O.M.s No. 741 dated 16.06.2008, license fee for Bars located in a Municipality where the population of the Municipality was above 50,000 but does not exceed 3,00,000 was ₹ 18.52 lakh. Provided that the license fee in respect of Bars situated within a belt area of 2 KMs from the periphery of municipalities shall also be at the rate of licence fee of Bars situated within the limits of such municipality.

We noted during the audit of the office of P&ES Chittoor, that bar license was issued to M/s Sprintz Bar and Restaurant, Chittoor for the year 2008-09 (26.5.2009 to 30.06.2009) by collecting proportionate license fee lesser than the prescribed fee, treating the area as located in Panchayat limits. During renewal of 2B license for 2009-10 and 2010-11, the Department identified that it comes under Chittoor Municipal limits and collected license fee on par with Bar license fee prevailing in Chittoor Municipal limits, but failed to collect the prescribed license fee for the year 2008-09 though the said area very much falls within 2 KMs periphery of Chittoor municipal

limits. This resulted in short collection of license fee for the year 2008-09 amounting to ₹ 2.15 lakh.

The Government replied (July, 2011) that the amount was collected.

3.6 Functioning of Clubs

As per Excise Act, 1968, 'In-house' license is granted to Club for the privilege of sale of IMFL & FL. The license fee for C1-Clubs is ₹ 3,00,000 and ₹ 6,00,000 where the population is upto 3,00,000 and exceeding 3,00,000 respectively. There are over 37 Clubs in the State as per the records of Commissioner. In all the cases, the Commissioner is the license granting authority.

We noted the following shortcomings in the manner in which the registered Clubs were licensed and subjected to various tax regulations.

3.6.1 License issued to ineligible Clubs

Rule 7(2) (a) (i) & (ii) of AP Excise (Grant of Licence of Selling by In House and Conditions of Licence) Rules, 2005 prescribe, among others, that Club license can be issued only to those that were registered under Societies Act with requisite number (500) of members.

We noted during the audit of P&ES Chittoor that Club license was issued to M/s Ramnagar Youth Club even though they did not fulfill the eligibility conditions of registration under Societies Act. Since the Club did not fulfill the eligibility conditions, grant of license was irregular.



The Government replied (July 2011) that Registrar of Societies was addressed to ascertain the position of registration of the said club. Final reply is awaited.

We noted during the audit of office of the Commissioner that the value of liquor stocks lifted by the Clubs from the depots during the years 2005-06 to 2009-10 had increased considerably by 21 to 1200 . It was also noted that the value of stocks lifted by seven Clubs during 2009-10 had exceeded 1 crore (details in Annexure IV).

Considering the quantum of sales by the Clubs, we believe that there is a need to review the matter for suitable revision of license fee as it was being done in case of Shops and Bars

The Government replied (July 2011) that privilege fee of clubs was enhanced from 10 to 12 .

We noted during the audit of the P&ES, Guntur that at the time of renewal of the Bar licence of M/s Sri Vijaya Saradhi Restaurant & Bar, Guntur (Licence No.76/2006-07) for the year 2007-08, the Department had collected an amount of 1.84 lakh being 10 of the licence fee towards non-contiguous consumption enclosures situated in ground floor and first floor as per Rule 10 cited above. Based on a representation made by the above licensee that he had made modifications to the premises on 15-09-2007

which provide way to continuity between consumption halls in ground floor and first floor, the DC Guntur had issued orders to adjust the additional license fee of 1.84 lakh paid by the above licensee because of removal of non-contiguity between consumption halls. Accordingly the amount was

²² Fatehmaidan Club, Hyderabad, Haveli Club, RR Dist., Hyderabad Boats Club, Hyderabad, LVR & Sons, Guntur, Secunderabad Club, Secunderabad, Nizam Club, Hyderabad and Waltair Club, Visakhapatnam



3.8 Failure to ensure payment of stamp duty on lease deeds

As per Rule 6(vi) of AP Excise (Grant of License of Selling by Bar and Conditions of License) Rules, 2005, no licensee shall be granted a Bar license unless the applicant produces lease deed on a stamp paper of the proposed licensed premises from the owner.

As per Sl. No. 31 of Schedule I-A to the Indian stamp Act 1899, a lease deed including an under lease or sub lease and any agreement to let or sublet, is chargeable with stamp duty as per the slab rates indicated therein. P & ES shall collect all amounts due to Government.

We noted in four²³ test checked offices that the Bar licenses were issued/ renewed without production of lease deed and in cases where lease deeds were produced, they were not registered with requisite stamp duty resulting in loss of revenue to the Government in the form of stamp duty and registration fee amounting to ₹ 34.92 lakh.

The Government assured (July 2011) that the amount pointed out would be collected.

²³ Secunderabad, Karimnagar, Hyderabad and Saroornagar.