



The Scottish Parliament
Pàrlamaid na h-Alba

HEALTH AND SPORT COMMITTEE

AGENDA

8th Meeting, 2010 (Session 3)

Wednesday 10 March 2010

The Committee will meet at 9.30 am in Committee Room 1.

1. **Subordinate legislation:** The Committee will consider the following negative instruments—

The National Health Service (Superannuation Scheme, Pension Scheme, Injury Benefits and Additional Voluntary Contributions) (Scotland) Amendment Regulations 2010 (SSI 2010/22);

The Food Enzymes (Scotland) Amendment Regulations 2010 (SSI 2010/26);

The National Health Service (Appointment of Consultants) (Scotland) Regulations 2010 (SSI 2009/28);

The Personal Injuries (NHS Charges) (Amounts) (Scotland) Amendment Regulations 2010 (SSI 2010/42); and

The Food for Particular Nutritional Uses (Miscellaneous Amendments) (Scotland) Regulations 2010 (SSI 2010/48).

2. **Petitions:** The Committee will consider the following petitions—

Petition PE1187 by Greig Muir calling on the Scottish Parliament to urge the Scottish Government to reconsider its plans to raise the age for off-sales alcohol purchases from 18 to 21; and

Petition PE1191 by Tom French, on behalf of the Coalition Against Raising the Drinking Age in Scotland, calling on the Scottish Parliament to urge the Scottish Government to drop its proposal to raise the age for off-sales alcohol purchases from 18 to 21.

3. **Alcohol etc. (Scotland) Bill:** The Committee will take evidence on the Bill at Stage 1 from—

John Beard, Chief Executive, Whyte & Mackay Ltd;

Mike Lees, Managing Director, Tennent Caledonian Breweries;

Gavin Hewitt, Chief Executive, Scotch Whisky Association;

Bob Price, Policy Adviser, National Association of Cider Makers;

David Poley, Chief Executive, The Portman Group;

Fergus Clark, Scottish Member, The Society of Independent Brewers;

and then from—

Liz Macdonald, Senior Policy Officer, Consumer Focus Scotland;

John Drummond, Chief Executive, Scottish Grocers' Federation;

Patrick Browne, Chief Executive, Scottish Beer and Pub Association;

Paul Waterson, Chief Executive, Scottish Licensed Trade Association;

Paul Smith, Executive Director, NOCTIS - The Voice of the Nighttime Economy;

and then from—

David Paterson, Scottish Affairs Manager, Asda Group Ltd;

Tony McElroy, Corporate Affairs Manager, Tesco plc;

Richard Taylor, Director of Corporate Affairs, Wm. Morrison Supermarkets plc;

Nick Grant, Head of Legal Services, Sainsbury's plc;

John McNeill, Regional Chief Officer, Scotland, Northern Ireland and Isle of Man, The Co-operative Group Ltd.

Douglas Thornton
Clerk to the Health and Sport Committee
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The Scottish Parliament
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The papers for this meeting are as follows—

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Note by the clerk	HS/S3/10/8/1
SSI 2010/22	HS/S3/10/8/2
SSI 2010/26	HS/S3/10/8/3
SSI 2010/28	HS/S3/10/8/4
SSI 2010/42	HS/S3/10/8/5
SSI 2010/48	HS/S3/10/8/6

Agenda Item 2

Note by the clerk	HS/S3/10/8/7
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Agenda Item 3

Whyte & Mackay Ltd submission	HS/S3/10/8/8
Tennent Caledonian Breweries submission	HS/S3/10/8/9
Scotch Whisky Association submission	HS/S3/10/8/10
National Association of Cider Makers (NACM) submission	HS/S3/10/8/11
The Portman Group submission	HS/S3/10/8/12
Society of Independent Brewers (SIBA) submission	HS/S3/10/8/13
Consumer Focus Scotland submission	HS/S3/10/8/14
Scottish Grocers' Federation submission	HS/S3/10/8/15
Scottish Beer and Pub Association submission	HS/S3/10/8/16
Scottish Licensed Trade Association submission	HS/S3/10/8/17
NOCTIS submission	HS/S3/10/8/18
Asda Group Ltd submission	HS/S3/10/8/19
Wm. Morrisons Supermarkets plc submission	HS/S3/10/8/20

Sainsbury's plc submission

HS/S3/10/8/21

Health and Sport Committee

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Abridged Subordinate Legislation Briefing

Negative Instruments

Name	Deadline	Motion to Annul	Purpose	Drawn to attention by Subordinate Legislation Committee (SLC)?
The National Health Service (Superannuation Scheme, Pension Scheme, Injury Benefits and Additional Voluntary Contributions) (Scotland) Amendment Regulations 2010 (SSI 2010/22)	11 March	No	<p>These Regulations further amend the National Health Service Superannuation Scheme (Scotland) Regulations 1995 (“the 1995 Regulations”), the National Health Service Pension Scheme (Scotland) Regulations 2008 (“the 2008 Regulations”), the National Health Service (Scotland) (Injury Benefits) Regulations 1998 (“the Injury Benefits Regulations”), and the National Health Service Superannuation Scheme (Scotland) (Additional Voluntary Contributions) Regulations 1998 (“The AVC Regulations”).</p>	<p>The SLC reported the following issues in relation to the instrument:</p> <ul style="list-style-type: none"> • it appears that the reference to “(Relevant Services Reckonable Pay)” in the formula in regulation 2.K.12(5)(a) is defectively drafted, given that the response from the Scottish Government confirms that the intention is to refer to “(Relevant Services x Reckonable pay)”; • the meaning and effect of regulation 2.K.2(14) on page 16 could be clearer, in relation to stating whether each of the paragraphs (1)(a)(ii), (8) and (13)(b) referred to must apply, for the provision to operate; • an explanation was sought from, and provided by, the Scottish Government as to the meaning and effect of regulation 3.K.14(2)(a), and the SLC was satisfied with that explanation; and • an explanation was sought from, and provided by, the Scottish Government as to its plans to lay a consolidation of the National Health Service Superannuation Scheme (Scotland) Regulations 1995 (SSI 1995/365). The SLC accepted that

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				explanation, and noted that the Scottish Government hopes to lay a consolidation of these Regulations in the course of this year.
The Food Enzymes (Scotland) Amendment Regulations 2010 (SSI 2010/26)	15 March	No	These Regulations correct an error in the Food Enzymes (Scotland) Regulations 2009. They amend the Caseins and Caseinates (Scotland) Regulations 1986 and delete from the 2009 Regulations the provision which purported to amend the Caseins and Caseinates Regulations 1985 (S.I. 1985/2026). Those 1985 Regulations do not in fact have any application in Scotland.	The SLC reports that this instrument breached the 21 day rule however it was content with the explanation given by the Scottish Government for this.
The National Health Service (Appointment of Consultants) (Scotland) Regulations 2010 (SSI 2009/28)	22 March	No	These Regulations amend the National Health Service (Appointment of Consultants) (Scotland) Regulations 2009 ("the 2009 Regulations"). Regulation 3A(1) makes it a requirement that a consultant must be on the Specialist Register, as defined in the 2009 Regulations, before they may take up an appointment as a consultant. Regulation 3A(2) exempts persons who held a post as a consultant in the health services of England, Wales, Northern Ireland or Scotland in oral and maxillo-facial surgery prior to 1st January 1997 from that requirement.	The SLC had no comments to make on this instrument
The Personal Injuries (NHS Charges) (Amounts) (Scotland) Amendment Regulations 2010 (SSI 2010/42)	22 March	No	These Regulations amend the Personal Injuries (NHS Charges) (Amounts) (Scotland) Regulations 2006 which make provision for the charges which a person who pays compensation to an injured person is liable to pay where that injured person has received National Health Service treatment or ambulance services ("NHS charges").	The SLC had no comments to make on this instrument

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<p><u>The Food for Particular Nutritional Uses (Miscellaneous Amendments) (Scotland) Regulations 2010 (SSI 2010/48)</u></p>	<p>12 April</p>	<p>No</p>	<p>These Regulations, which apply in relation to Scotland only, amend the Food Labelling Regulations 1996 and the Notification of Marketing of Food for Particular Nutritional Uses (Scotland) Regulations 2007 to reflect the repeal and replacement of Council Directive 89/398/EC on the approximation of the laws of the Member States relating to foodstuffs intended for particular nutritional uses (O.J. No. L 186, 30.6.1989, p.27) (“the original Directive”), by Directive 2009/39/EC of the European Parliament and of the Council on foodstuffs intended for particular nutritional uses (“the new Directive”).</p>	<p>The SLC had no comments to make on this instrument</p>
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Where instruments have been drawn to the Committee’s attention, the relevant extract from the SLC report is given as an annex to this paper. If members have any queries or points of clarification on the instrument which they wish to have raised with the Scottish Government in advance of the meeting, please could these be passed to the Clerk to the Committee as soon as possible.

Health and Sport Committee

8th Meeting, 2010 (Session 3), Wednesday, 10 March 2010

Note on petitions

Introduction

1. In August and September 2008, the Public Petitions Committee (PPC) received two petitions, PE1187 and PE1191, calling on the Scottish Parliament to urge the Scottish Government to reconsider its proposal to raise the age for off-sales alcohol purchases from 18 to 21.
2. On 23 September 2008, the PPC agreed to link these petitions and refer them for consideration as part of Stage 1 scrutiny of the Criminal Justice and Licensing Bill.
3. In March 2009, the Scottish Government indicated its intention to lodge amendments at Stage 2 of the Criminal Justice and Licensing Bill to remove the provisions on alcohol licensing. Those provisions are now contained within the Alcohol etc. (Scotland) Bill, in respect of which the Health and Sport Committee has been designated lead committee and is currently taking oral evidence at Stage 1.
4. The content of the petitions is set out below.

PE1187 – Greig Muir

5. PE1187 was lodged on 29 August 2008 and originally referred to the Justice Committee on 23 September 2008:

Petition by Greig Muir calling on the Scottish Parliament to urge the Scottish Government to reconsider its plans to raise the age for off-sales alcohol purchases from 18 to 21.

PE1191 – Tom French

6. PE1191 was lodged on 9 September 2008 and originally referred to the Justice Committee on 23 September 2008:

Petition by Tom French, on behalf of the Coalition Against Raising the Drinking Age in Scotland, calling on the Scottish Parliament to urge the Scottish Government to drop its proposal to raise the age for off-sales alcohol purchases from 18 to 21.

Recommendation

7. **The Committee is invited to consider whether it wishes to—**

(a) close petitions PE1187 and PE1191 on the basis that it will consider the issues that they raise as part of its consideration of section 8 of the Alcohol etc. (Scotland) Bill on the sale of alcohol to under 21s;

(b) consider the issues that they raise as part of its consideration of section 8 of the Alcohol etc. (Scotland) Bill on the sale of alcohol to under 21s but keep the petitions open until the Alcohol etc. (Scotland) Bill completes its passage through the Parliament; or

(c) propose and agree an alternative approach.

Andrew Howlett
Committee Assistant

Alcohol etc. (Scotland) Bill

Whyte & Mackay Ltd

Introduction

Whyte and Mackay Ltd welcomes the opportunity to provide written evidence to the Health and Sports Committee for the purpose of its scrutiny of the Alcohol etc (Scotland) Bill.

We are one of the world's leading suppliers of own label and branded Scotch whisky. The company, headquartered in Glasgow, has a bottling plant in Grangemouth, owns distilleries at Invergordon, Dalmore, Isle of Jura, Fettercairn and Tamnavulin, and operates distribution facilities in Bathgate and Seafield.

We are heavily dependent on the UK market, with 60% of our business being generated here. We are the industry's leading supplier of own label whisky for the majority of the UK's grocery retailers, and we account for an estimated 80% share of that market. Own label products account for almost a third of whisky sold in this country. We employ 480 people, of which 90% of which are based in Scotland.

Alcohol in Scotland

Whyte and Mackay shares the concern of Government about the unacceptably high levels of alcohol abuse in Scotland and the impact this has on the nation's health and society in general.

As a producer and supplier of alcohol we take our responsibilities very seriously and continue to raise the standards of our marketing, promote best practice and be socially responsible. We were a founding partner of the Campaign for Sensible Drinking which has now merged with Drinkaware, and we retain membership of this important body. We are also an active member of the Scottish Government Alcohol Industry Partnership and, in common with others in our industry, we continue to support initiatives that promote safe and responsible drinking.

Minimum Pricing

Although we understand why the Government is keen to look at hard hitting initiatives like minimum pricing, we are strongly of the view that it will not be the deterrent the Scottish Government hopes it will be.

Effectively, minimum pricing would penalise the majority of consumers who drink alcohol responsibly, and will have little or no impact on the minority who have alcohol dependency issues.

We also believe there will be a series of unintended consequences which could seriously undermine the Government's efforts to tackle this important problem longer term.

Impact on Jobs

From our company perspective, we have no doubt that minimum pricing will decimate the own label market. This in turn will lead to significant job losses at Whyte & Mackay, across our distilleries, our bottling plant and our distribution centres.

The Scottish Government has not given any indication in the Bill about the level of the minimum price, so it is therefore difficult to be exact about the impact on our workforce.

Based on informal discussions with Government officials and the media coverage surrounding this proposed policy, we have undertaken an impact assessment at 50p per unit of alcohol.

At a minimum price of 50p per unit of alcohol, a bottle of own label whisky would rise an astronomical 37.5% to a retail price of £14. At that level, quality own label loses its competitive advantage and would be competing in the same price range as premium brands such as Famous Grouse and Bell's Whisky.

If given the choice, most consumers will opt for the premium brands at the same price. That being the case, the role and need for own label products disappears altogether. We have had it on good authority that supermarkets would likely delist own label products if the competitive advantage was lost and demand shifted to premium whisky.

As the leading supplier of own label whisky, this would be disastrous for our business.

We anticipate that our bottling plant in Grangemouth, which employs 200 people, would close. Our production levels would also be affected so there would be a knock-on effect at our distilleries. Our best estimate is that another 100 jobs would be at risk.

Whyte & Mackay, a company established in 1844, would essentially cease to exist in anything but name only.

If we were to lose that many jobs, and lose that significant profit, there is no way that Whyte & Mackay could continue working with Government to fund and promote responsible drinking initiatives.

“For Calais, Read Carlisle”

There is strong evidence to suggest that minimum pricing will fuel illicit trade in alcohol, particularly where a pricing differential exists between two countries. A minimum price regime in Scotland would create price disparities with England and will encourage cross-border activities, with ‘white van men’ stocking up in Carlisle to sell to the very people who have dependency on alcohol, often in deprived areas, across the central belt of Scotland.

There would be no control over their selling practices and the alcohol would be sold on an unregulated basis, ironically at a cheaper rate than reputable retailers.

This is entirely consistent with the experience of cross-channel buying in France where research has shown that people from as far afield as Aberdeen were willing travelling by van to purchase large quantities of alcohol.

Importantly, and contrary to Government feedback, this will not be about the odd individual heading South for the occasional purchase. As with tobacco, it is inevitable that organised black market businesses will exploit the new profit opportunity. This issue is only exacerbated in a period of economic downturn and high unemployment.

The Irish Government’s radical reduction in excise duty by between 12% and 60% (depending on the product) in December 2009 clearly demonstrates the extent to which differentiated prices across borders drives extensive cross border trading.

Furthermore, we currently estimate that approximately 5% of all alcohol sales are through the internet and mail order routes. It is already a substantial part of the market place and is expected to grow substantially if the Scottish Government were to introduce minimum pricing. It would not be unreasonable to expect that new internet and mail order firms will be established in England to offer advantageous prices to Scots drinkers.

Organised Crime

In September last year, a study conducted by the Swedish Retail Institute (HUI) into restrictive Swedish alcohol policy highlighted numerous shortcomings.

They state that price intervention failed as an instrument for keeping alcohol consumption low, with recent the trends showing it had the opposite effect with a huge amount of imports being sold illegally on the black market.

The organisation states that the availability of alcohol to young people is greater than ever before, and criminal organisations have gained a hold on alcohol distribution making the current policy untenable.

Whyte and Mackay has always been and continues to be committed to playing its part in tackling the serious problem of alcohol misuse in Scotland and in the UK.

However we feel that minimum pricing is the wrong approach. It will have a disproportionate impact on our business and Scottish jobs, and will have unintended consequences which will undermine the positive work being done to date by all stakeholders.

John Beard
Chief Executive Officer
Whyte and Mackay Ltd

Alcohol etc. (Scotland) Bill

Tennent Caledonian Breweries

Tennent Caledonian Breweries UK Ltd response to the above Bill falls in line with the Scottish Beer & Pub Associations except in the one area of minimum pricing. I submitted an electronic statement via your website but received a mail failure report. Having tried again on 26th January I continued to get a mail failure, so would like to formally submit a statement on minimum pricing via this letter.

“As Scotland’s leading brewer, Tennent’s recognises its duty to act responsibly and has always encouraged people to drink responsibly. Tennent’s has a strong commitment to Scotland and welcomes sensible moves to ensure alcohol is enjoyed appropriately.

We recognise that there is an issue of overconsumption of alcohol among a minority of consumers, and acknowledge that the Scottish Government is working to try to combat this problem. In particular, there is an issue with a small group of consumers who purchase cheap alcohol in bulk, drink excessively at home and then go out into pubs and clubs and get into difficulties.

We believe that, if implemented appropriately, minimum pricing could be part of the solution by increasing the price of alcohol, particularly of high strength products and is one way of addressing the alcohol abuse issues that we face in Scotland. Consequently, Tennent’s supports the proposals to introduce minimum pricing so long as the measures proposed are fair, proportionate and part of an overall programme to reduce the abuse of alcohol.

We believe passionately that responsible adults have the right to enjoy drinking sensibly and we believe that minimum pricing, when combined with other measures, may contribute to an improvement in society”.

Apologies for this ‘late’ submission but this was due to systems issues.

Mike Lees
Managing Director
Tennent Caledonian Breweries UK Ltd
24 January 2010

Alcohol etc. (Scotland) Bill

Scotch Whisky Association

Introduction

The Scotch Whisky Association (SWA) agrees that attitudes in Scotland to alcohol misuse must change and alcohol-related harm must be reduced. The Association and its members actively promote responsible drinking. The Association operates a tough Code of Practice on responsible marketing, was a founding member of the Scottish Government Alcohol Industry Partnership and initiated the Alcohol Awareness Week, now in its third year. We take a leading role in the Fife project set up to trial and evaluate initiatives to reduce alcohol misuse. Our aim is to ensure that moderate consumption continues to be part of normal healthy life in Scotland, and that misuse is regarded as unacceptable behaviour.

The SWA supports much that the Government wishes to achieve, but is opposed to minimum pricing. The Association is concerned that the debate has become polarised around price, with the risk that other approaches will not be properly considered and pursued. Tackling misuse can only be successful if a multi-component approach is taken that targets those drinking most heavily or inappropriately. With 80% of alcohol consumed by 30% of the population, targeting hazardous and harmful drinkers offers the greatest opportunity to reduce harm. Alcohol consumption has remained flat in Scotland over the past five years. Not only that, the Alcohol Bill is being introduced against the back drop of implementation of the new Licensing Act and roll out of the national brief intervention programme the impact of which have still to be assessed.

This paper looks more widely, but begins with aspects of the Alcohol Bill on which the Committee has requested comment. We would welcome the opportunity to discuss these matters in more detail with the Committee.

Minimum Pricing

The advantages and disadvantages of establishing a minimum alcohol sales price based on a unit of alcohol

Research for the Scottish Government shows minimum pricing would not have a significant impact on tackling misuse, yet it has the potential to damage the Scotch Whisky industry and wider Scottish economy severely. We believe minimum pricing to be illegal, ineffective and likely to cause negative unintended consequences.

Minimum pricing is recognised as a barrier to the free movement of goods. We believe it to be illegal under the EU Treaty (Article 28), and likely to be in breach of World Trade Organisation rules (GATT Art.III). These rules have allowed Scotch Whisky exports to grow and underpin future industry success. Scotch Whisky accounts for around 90% of Scottish food and drink exports. It is Scotland's largest single product export industry. If Government action in

Scotland undermined EU and WTO rules, the knock on effect would be hugely damaging for Scotch Whisky and the wider Scottish economy, reducing exports by as much as £600m a year.

A Scottish system might attempt to overcome EU and WTO trade law by seeking a public health exemption, but no such exemption has ever been secured for any product. If Scotland were to secure an exemption, this would establish a precedent that would give other countries the opportunity to introduce spurious 'public health' justifications for keeping Scotch Whisky out of vital export markets, undermining the industry, employment in Scotland and the Scottish economy.

Exports of premium brands would be adversely affected overseas by a Scottish initiated trade barrier. Attempts to open up new markets would be stalled. Econometric analysis suggests that some 20% of Scotch Whisky exports would be put at risk. At home, value brands and supermarket own label products favoured by those on lower incomes would see immediate price rises. Companies specialising in this sector which represent 30% of Scotch Whisky sales in Scotland fear a significant loss of business, leading to job losses and closures. At a 50p a unit price, an average priced bottle of Scotch would increase by over 30% (a 40p unit would cause a 6% increase).

The industry believes minimum pricing to be the most serious threat to its future competitiveness.

The rationale behind the use of minimum pricing as an effective tool to address all types of problem drinking.

The case for minimum pricing relies heavily on the Government commissioned 'Sheffield' modelling. The report shows those drinking most heavily will have to spend less than the price of one pint of beer a week more and will be the least likely to change their drinking patterns and behaviour. The proportion of hazardous and harmful drinkers remains unchanged. Any reduction in total consumption would be due to moderate drinkers reducing their drinking. If overall consumption falls through a reduction in excessive drinking we have no issue with that outcome. Reducing consumption without significantly reducing the number of heavy drinkers, while undermining a major Scottish industry and its contribution to the economy, is not a policy that is in the national interest.

The Sheffield modelling contains many flaws. Moderate consumption under the terms of the study is 6 units a week compared to the Government moderate guidelines of 14 for a woman and 21 for a man. The negative cost impact on responsible moderate consumers is seriously underestimated.

The Sheffield report has three categories of drinker - moderate, hazardous and harmful. All drinkers within a category are assumed to hold the same characteristics. No assessment is made for age, gender, ethnicity, social grouping or different drinking patterns. For example it is assumed that all hazardous and harmful drinkers buy on price alone. Also, key parts of the

model do not use Scottish data but make assumptions about impact in Scotland; there is no consideration of the impact of minimum pricing on cross border sales, illicit supply, organised crime and fraud.

Minimum pricing is a blunt instrument borne by many but of limited impact. The SWA believes the Alcohol Bill should be amended to remove the minimum pricing provisions.

Sales Below Cost

If policymakers wish to introduce a price-based mechanism as part of a multi-component approach, investigation of a ban on sales below cost could be merited. Such bans operate in certain EU countries and appear able to overcome the EU and WTO legal obstacles confronting minimum pricing.

The SWA strongly supports action to prevent the loss leading of alcohol. A number of commercial confidentiality and competition law concerns may need to be addressed if sales below cost are to be banned. The Association has already proposed for discussion a ban on below tax (excise and VAT) sales of alcohol as a fair and transparent mechanism to tackle loss-leading.

This 'floor price' mechanism, combined with excise duty reform to ensure all alcohol is taxed on the same basis according to alcohol content would be equitable and transparent. Taxing all drinks at the same rate according to alcohol content would underpin the message that it is the amount of alcohol consumed rather than the type of drink chosen that matters. The SWA would welcome the opportunity to work closely with Government and others to find a fair, transparent and legal mechanism to address loss leading.

Non-pricing measures

Focus on price erroneously suggests that price provides a straightforward solution. Changing attitudes and behaviour, and reducing misuse long term, is complex. A report for the European Commission shows alcohol is more affordable across the EU, yet consumption has declined.

Policies should be targeted at those with harmful drinking patterns. Research for the Scottish Government has shown that alcohol is slightly more expensive in Scotland than England, yet alcohol problems in Scotland are reported to be worse than in England. There is a need to understand why there is an apparent difference in harms when market conditions are broadly similar.

Focus on a price solution may obscure other policies. As shown by drink driving, changing attitudes requires a long term commitment, best secured through effective campaigning, significant penalties backed by proper enforcement. This helps reinforce the personal responsibility of the drinker.

Social Responsibility Fee

The advantages and disadvantages of introducing a social responsibility levy on pubs and clubs in Scotland.

It is vital that before any fee is considered the purpose of the fee is addressed. It should be considered only on a fault-based basis. Licensed businesses already pay for their licence on top of business rates and other charges. Properly managed businesses operate to the highest standards and should not be penalised for the failings of others. Those that fail to meet acceptable standards should take responsibility for their deficiencies.

The SWA would support a fault-based fee targeted at premises shown to be contributing to alcohol-related harms. Well-run pubs, restaurants, tourist attractions and distillery visitor centres must not be penalised through a blanket national or local policy.

Promotions

The role of promotional offers and promotional material in encouraging people to purchase more alcohol than they intended.

There are many types of promotion, and not all are price based. For many small companies the ability to offer legal purchase age consumers a taste of a new product is an effective way of introducing a new brand when they do not have the marketing budgets of larger competitors. The industry's strict Code of Practice has guidance on responsible tastings. The SWA supports restricting marketing material to alcohol display areas, with in-store sampling and other responsible promotional activity allowed only within these areas.

The Scottish Government has made a commitment that proposed legislation will be scrutinised to ensure no unintended consequences for whisky-related tourism, such as an end to the traditional practice of offering a 'dram' to distillery visitors. We welcome that approach, which is consistent with tackling misuse and not penalising responsible consumption.

Stopping sales to underage consumers

The justification for empowering licensing boards to raise the legal alcohol purchase age in their area to 21.

Existing licensing law bans sales to those who are under the legal purchase age or intoxicated. The law needs to be consistently applied, both by those selling alcohol, and by the police.

The SWA is not convinced that raising the legal purchase age in the off-trade is a proportionate or effective policy response. The potential for confusion where one area applies a different purchase age to its neighbouring licensing board/town; or those of purchase age in a pub are not of purchase age to buy alcohol to enjoy at home. We believe clarity of the law, supported by firm enforcement is a better way forward.

The SWA supports strong sanctions such as licence revocation on test purchasing and a 'two strikes and you're out' basis. Mandatory staff training required under the Licensing Act will help equip staff to comply with the law in sometimes difficult circumstances.

Other issues

Working in Partnership: Changing culture requires a sustained effort from all stakeholders -government, industry, the public health and education communities, the voluntary sector, media, and individuals.

The Scottish Government Alcohol Industry Partnership demonstrates what can be achieved by working together. Successes include the annual Alcohol Awareness Week, a model alcohol in the workplace policy backed by the STUC and CBI, supply chain responsibility standards, sponsorship guidelines, and support for a pilot community based multi-component project in Fife.

Responsible Labelling and Marketing: The vast majority of whisky bottles display units of alcohol to help consumers make informed choices. Over 80m bottles of Scotch Whisky carried such information in the UK last year. Distillers are also implementing new voluntary responsible drinking labelling standards. 76% of labels already or will soon feature five responsibility message elements.

The SWA's Code of Practice governs the global promotion of Scotch Whisky. It is backed by an independent complaints panel and sanctions, including the power to fine and 'name and shame' offenders. This is positive and effective self-regulation in action.

Better Alcohol Education and Early Interventions: Better alcohol education can play a key role in instilling responsible attitudes. Children should learn from an early age about the dangers of misuse, that choosing to drink alcohol is a big step, and that making the choice not to drink is one to which no stigma is attached. It is also important that young people have sporting and cultural diversionary activities.

Education should continue through adult life, with support given to health professionals to deliver brief interventions to change drinking habits before they become problematic. The industry welcomes the increased focus on brief interventions. One in eight individuals receiving brief interventions moderates their drinking behaviour.

Alcohol etc. (Scotland) Bill

National Association of Cider Makers (NACM)

The National Association of Cider Makers (NACM), which represents producers of cider and perry in England, Wales and Northern Ireland, welcomes the opportunity to comment on the Alcohol etc. (Scotland) Bill.

The cider industry is characterised by its wide range of scale of production with two major producers, a handful of medium scale producers and a very long tail of very small scale producers with some perry and cider makers producing less than 70HI per annum.

The principal raw material for making perry and cider is pears for perry and apples (both cider apples and dessert apples) for cider. The source of the pears and apples for making perry and cider is from a wide variety of orchards, varying in scale from 2-3 trees to large orchards in England and Wales.

Cider and perry is sold throughout the United Kingdom in a wide range of outlets from major national and regional pub chains, major multiple retailers to farm shops and local pubs and local supermarkets.

ALCOHOL MISUSE

NACM appreciates the Scottish Government's desire to tackle alcohol misuse and is an active member of the Scottish Government Alcohol Industry Partnership to develop effective, practical and targeted measures to address the misuse of alcohol by the few.

The share which cider and perry have of the total UK alcoholic drinks market is only a very small 8%, compared to beer (42%), wine (25%), spirits (25%) and RTDs (alcopops) (2%). Of that 6%, strong white ciders >7.5% ABV, accounting for < 0.6% of the total alcohol market and is a declining share of the market. The market share of cider and perry in Scotland is similar to the average market share in the UK.

As the figures clearly show, due to its small market share, cider and perry cannot be singled out as being responsible for alcohol misuse in Scotland, as some would suggest. A review of published reports in the public domain produced by the Scottish Executive, UK Government and other bodies, quite clearly demonstrates that no one alcoholic drink is responsible for alcohol misuse – misuse is caused by certain drinkers who clearly misuse alcohol and by some under 18s who are clearly breaking the law. This therefore is not a problem about problem drinks but about problem drinkers.

The cider industry looks forward to continue its partnership with the Scottish Government to tackle these serious problems. In drawing up policies to reduce harm from problem drinkers, however, it is essential to base solutions

on the facts and robust evidence of what works. As has been stated by other organisations in the alcoholic drinks industry, it is important that policies are seen to be both effective and fair. Like others we fear the some of the proposals contained in the Alcohol etc. (Scotland) Bill meet none of these criteria.

SPECIFIC COMMENTS ON THE PROVISIONS OF THE ALCOHOL ETC. (SCOTLAND) BILL

Minimum Price Based on a Unit of Alcohol

Given that the majority of the public drink sensibly and that alcohol is misused by a minority of drinkers, general population measures such as increasing taxes or other means of raising prices (curbing promotions, introducing minimum pricing etc.) are not the appropriate means for tackling misuse – it penalises the majority of sensible drinkers without necessarily dealing with alcohol misuse. People's lives are already being negatively impacted by problem drinkers and it seems ironic that this negative impact should be doubly visited upon them by having to endure restrictions, inconvenience, and ultimately higher prices, as set out in the consultation document, to deal with the problem drinkers.

The Sheffield University model does no more than demonstrate that if you raise the price of a product consumption falls; basic economic theory. However, it does not adequately demonstrate how it specifically tackles the issue of alcohol harms and misuse other than by penalising the majority.

In Canada 8 out of the 10 Provinces have introduced social reference pricing (minimum price) provisions but there is no single approach to how it is applied. Each province sets its own social reference price for particular alcoholic drinks and reviews them according to different criteria. Canada is not, therefore, a useful test market to review the effectiveness of minimum pricing because of its complex federal and provincial tax system and with alcohol in many of the provinces only available through provincial monopolies and stores which have permission to sell alcohol.

The role of Promotions

Promotional activity is a direct and more effective way to introduce consumers to new products and product variants. Restricting promotions will inhibit new product introductions into Scotland.

The average strength of cider in Scotland and the rest of the UK has reduced. There are also plans to introduce into the UK market significantly lower strength cider but before the product is put on sale more widely it is being trialled/promoted in a limited number of on and off-retail outlets. However, without the ability to promote such new products, producers will not be able to introduce them to the public at large. It will be observable and measurable that the uptake of successful new product launches will be in those areas where the restrictions do not apply.

Inevitably the market will stagnate and will become characterized by lower quality and cheaper products.

There is evidence to demonstrate that the type of consumers that purchase alcohol on promotion has reasonably low weekly alcohol spends and that as a result of their purchase they reduce their alcohol spend in subsequent weeks. Furthermore there is no evidence to suggest promotions encourage excessive drinking. NACM supports the comment given by the Wine and Spirits Trade Association (WSTA) that under-25's represent a small percentage of overall alcohol consumption in Scotland and under 28 year olds are the least likely purchasers of all types of alcohol on promotion. The social demographic group ABC1's (professional and managerial) make most use of promotions whilst C2DE's are least likely to purchase.

NACM fully subscribes to the Portman Group Code of Practice which is successful in ensuring that products are marketed in a socially responsible way and only to an adult audience.

Conclusion

Penalising the general population does not seem to be the appropriate way forward in either seeking to bring about cultural change in Scotland's relationship with alcohol or dealing with alcohol misuse (the problem drinkers). Indeed certain proposals in the area of promotions will undermine efforts to promote a cultural change if new products are not provided a route to market. To restate, there are no problem drinks, only problem drinkers and therefore measures need to be targeted at these misusers. Furthermore NACM believes that the panoply of powers available to the police and local authorities should be used much more effectively both against individuals who misuse alcohol and those who wilfully seek to break the law in obtaining alcohol underage, as well as against those retailers who sell alcohol irresponsibly.

No new legislation is required. NACM believes that the Scottish Government should focus on maximising the effective use of existing legislation to target problem drinkers and that it should avoid using one-size-fits-all measures that just punish everyone.

It has become apparent that no effort has been made by those wishing to introduce further legislative controls on the availability and the price of alcohol to identify and deal with the real causes of alcohol misuse (*and indeed substance abuse in general*). It is misplaced to focus on the availability and affordability of alcohol as the sole and root cause of misuse. The real drivers behind harmful drinking, binge drinking behaviour and under 18's alcohol misuse tend to get overlooked as a consequence. Failure to get this right means that behaviour does not change, misuse and harmful drinking continues but that the general public are penalised as a result of failed policies built on false premises.

Agenda Item 3
10 March 2010

HS/S3/10/8/11

Bob Price
Policy Adviser
National Association of Cider Makers &
European Cider and Fruitwine Association
19 January 2010

Alcohol etc. (Scotland) Bill

The Portman Group

The Portman Group (TPG) was set up in 1989 by the UK's leading alcohol producers. Our eight member companies collectively produce the majority of the alcohol sold in the UK.

Our member companies are:

Bacardi-Martini, Beverage Brands (UK), Carlsberg UK, Diageo Great Britain, Heineken UK, InBev UK Ltd, Molson Coors Brewing Company (UK), Pernod Ricard UK.

Our role involves:

- Encouraging and challenging the industry to promote its products responsibly, mainly through the successful operation of our Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks;
- Demonstrating leadership on alcohol social responsibility through the actions of member companies;
- Speaking on behalf of our members on these issues to inform public opinion and policy.

We are a drinks producer organisation. While producers have some influence over the way in which their products are promoted at point-of-sale (for example, they control their packaging and may additionally offer point of-sale display material, etc), it should be made clear that producers' influence in this area is secondary to retailers. In particular, it is the retailer who controls the price at which a product is sold.

It is for the retail sector to determine and defend its own positions and policies in respect of pricing issues. Despite this, producers are concerned about how their products are presented for sale and we are therefore pleased to offer our views in this consultation on the various issues which are most relevant to drinks producers.

1. Our views on the advantages and disadvantages of minimum pricing

Advantages

Introducing a minimum price for alcohol may reduce the health and social harms caused by excessive drinking; if the eventual impact has been accurately predicted by the Scottish Government. Minimum pricing would be a more targeted policy than taxation because it affects only the cheapest drinks which tend to be favoured by those who drink excessively. Minimum pricing is also likely to be more effective than taxation because it is guaranteed to lift the floor price of alcohol while duty rises can be absorbed by industry.

Disadvantages

Introducing a minimum price for alcohol may not persuade long-term problem drinkers or those who drink to get drunk to change their behaviour. (see rationale section.) The policy is designed to make everyone drink less,

moderate and problem drinkers alike. The cheapest drinks tend to be favoured not only by those who drink excessively but also by those with less disposable income. Establishing a floor price may drive an increase in unregulated trade of alcohol or growth of grey or black markets, particularly where rates are lower in neighbouring jurisdictions. We are experts in alcohol policies, not legal matters, but we understand that there are doubts over the legality of minimum pricing under European competition law.

2. Our views on the level at which such a proposed minimum price should be set and the justification for that level

We remain unconvinced that establishing a minimum price in order to discourage harmful drinking would be an effective policy. If there is to be minimum pricing, however, those responsible for setting the level should fully consider not only the alleged health benefits but also the policy's impact on the responsible drinking majority, employment, businesses and trade.

3. Our views on the rationale behind the use of minimum pricing as an effective tool to address all types of problem drinking

A significant minority of the population in the UK and, to a greater extent, in Scotland have unhealthy relationships with alcohol. We note, however, that the Scottish Government continues to justify population-wide control measures, such as pricing restrictions, by claiming that "up to 1 in 2 men"ⁱ are estimated to be regularly drinking over sensible drinking guidelines. The 2008 Scottish Health Survey includes updated estimates of the proportions of men and women exceeding the weekly sensible drinking guidelines. In comparison with 2003, these show a fall from 34% to 30% for men and from 23% to 20% for women.ⁱⁱ This makes the suggestion that 50% of men might be exceeding the guidelines seem unlikely.

The assessment of price as an effective health policy tool is based largely on predictive models and projections of outcomes. These rely on assumptions over the relationship between per capita consumption of alcohol and indicators of harm (automobile accidents, liver cirrhosis, suicide, violence etc.) There is little empirical evidence of a direct correlation between the price of alcohol in a country and the level of alcohol-related harm. In fact, this strategic objective has been discredited by several authoritative studies.ⁱⁱⁱ

Total consumption levels can mask trends in drinking patterns and behaviours of individuals and groups in society that may not mirror the overall rate. This is well illustrated by the fact that the UK's total consumption level has fallen by 6% since 2004, from 9.4 litres per head to 8.9 in 2008, but alcohol health harms continue to rise.^{iv}

In many countries where the price of alcohol is high, the prevalence of heavy drinking and harm also remain high. In Ireland, Sweden and Finland, for example, where alcohol is priced above the European average, there are higher than European-average levels of alcohol related harm. Conversely, in many countries where the price of alcohol is cheaper there are lower levels of harmful drinking; France and Spain, for example. (ANNEX A, relative price of

alcohol across European states.) Clearly, social norms may vary. This explains why there are different drinking behaviours across Europe.

In the view of many studies, there is clearly some inverse relationship between price and demand. In most cases, the evidence points to relative inelasticity of demand. Thus, an increase in price results in a less than proportionate reduction in demand.^v This appears to apply consistently across a large number of countries, and to apply similarly when prices (measured in real terms) are reduced.

Furthermore, it is moderate and non-problem drinkers that are most likely to be price-sensitive. Heavier drinkers, on the other hand, will be least affected – simply because their desire and dependence will drive them to find alternative ways of maintaining consumption.^{vi} This seems to be true in both directions: A reduction in taxation rates in Denmark, Sweden and Finland in 2003, for example, had no effect on consumption by heavier drinkers.^{vii}

Thus, those with a habit of harmful alcohol use are least likely to be deterred by price regulation, although the evidence in the case of under-18s is less clear. There is some uncertainty in the literature concerning their sensitivity to price. Intuitively, we might expect that they would be more sensitive to price given their lower incomes, and this seems to be borne out by a number of respected studies. When parents and other adults, however, are the primary source of beverage alcohol, price is not a significant factor in reducing consumption among under-18s.

The Scottish Government places a great deal of importance on the findings of the University of Sheffield's report into the relationship between price, promotions and harm. The Sheffield report is an interesting contribution to the debate surrounding the influence of price.

We note, however, that in peer-reviewing the University of Sheffield study, CEBR disputed the reliability of the price elasticities employed and therefore the validity of Sheffield's findings.^{viii}

In their research, University of Sheffield authors assume a steady state, estimating the possible impact of minimum pricing without consideration of other key factors. They do not, for example, take account of the potential increase in illegal imports, a likely consequence of any market distortion through the introduction of a minimum unit price.

In conclusion, price controls are regressive upon responsible consumers while possibly failing to achieve their goal of reducing harm. It is therefore a misguided priority to try to encourage everyone to drink less by attempting to reduce the nation's overall consumption. Instead, successful harm reduction policies focus on harmful drinkers through focused interventions, alcohol law enforcement and effective education.

4. Our views on possible alternatives to minimum pricing

The vast majority of people enjoy drinking socially and responsibly, without causing harm to themselves or to others. The UK Government estimates that seven percent of the population drink one-third of the alcohol consumed in the UK.^{ix} It is this group that we need to concentrate on. They can be persuaded to drink responsibly through measures other than price controls, such as better education and proper enforcement of the alcohol laws, tactics which proved successful in tackling the drink-driving culture over the last twenty years. Education campaigns and hard-hitting advertisements, combined with robust enforcement of the law, changed the culture. Consequently, the annual number of people killed in drink-drive accidents fell by over 60% between 1986 and 1999^x without the need to limit the extent of drinking or, for that matter, driving.

The Portman Group and its member companies have a long history of supporting alcohol education. They founded Drinkaware, the independent alcohol education charity, which recently secured a significant increase in funding from other areas of industry to further strengthen its campaigning work in the UK.^{xi} Portman Group member companies were also instrumental in establishing the Campaign for Smarter Drinking last year. This is an industry-funded social marketing campaign, worth £100 million over five years, aimed at encouraging more responsible drinking among young adults.^{xii}

5. Our views on the advantages and disadvantages of introducing a social responsibility levy on pubs and clubs in Scotland

As a drinks producer organisation it would be inappropriate to comment in detail on the merits or otherwise of this particular proposal as it concerns retailers.

We do, however, have a couple of observations about the principles involved in this proposal. First, if the purpose of such a fee would be to crackdown on irresponsible retail practices, surely any failings should be dealt with by licensing authorities in reviews of individual premises' licensing conditions. Otherwise, the impression could be given that licensing authorities are gaining financially while allowing irresponsible practices to go unchecked.

Second, if the purpose is to create a levy on retailers to fund some of the costs of alcohol-related crime, disorder and health harms, in addition to their business taxes, the difficulty will be in creating a system that is fair to all. This is because of the complexity of apportioning responsibility for people's actions to specific retailers.

6. Our views on justification of empowering licensing boards to raise the legal alcohol purchase age in their area to 21

While acknowledging the logic behind the proposal, it seems improbable that this tactic would encourage a sense of personal responsibility among adults in Scotland. Restricting people's ability to purchase a product that they can legally consume appears to be a disproportionate policy measure. If 18 year-olds are trusted to vote, go to war and get married, they should be trusted to

buy alcohol in a shop. It makes far more sense to enforce the current law more robustly than to change the age threshold for purchase.

7. Our views on promotional offers and promotional material in encouraging people to purchase more alcohol than they intended;

We are not convinced that action is required to curb volume-related discounts in the off-trade. We are acutely aware of the potential dangers of inciting consumers to purchase more alcohol than they might otherwise have chosen. We see a possible distinction, however, between the on-trade and off-trade because purchase in the former is always for immediate consumption whereas in the latter it is not. Incentives to purchase extra volume in the on-trade therefore almost inevitably impact on drinking patterns and thus run a higher risk of encouraging alcohol misuse. Because of this, we have issued a Help Note for producers (ANNEX B) on responsible volume-related discount promotions in the on-trade (in so far as producers have influence over such promotions) which seeks to ensure that promotions are designed and presented in such a way as to avoid encouraging excessive drinking. In the off-trade, however, the purchase of extra volume does not necessarily impact on drinking patterns; instead, consumers may choose to store their purchase and consume it at their leisure over weeks or months.

David Poley
Chief Executive

ⁱ p2, policy memorandum, Alcohol Etc. (Scotland) Bill

ⁱⁱ p56 Scottish Health Survey 2008, The Scottish Government 2009

ⁱⁱⁱ Rose, G (1992) *The Strategy of preventive medicine*. Oxford University Press. Oxford.
Tuck, M (1980) *Alcoholism and Social Policy. Are we on the right lines?* Home Office Research Study No 65. HMSO. London
Duffy, JC (1993) *Alcohol Consumption and Control Policy*. Journal of Royal Statistical Association. Series A (Statistics in Society), 156

^{iv} BBPA and HM Revenue and Customs, BBPA Statistical Handbook 2009

^v Working Together to Reduce Harmful Drinking: Chapter 5, "Pricing Beverage Alcohol," by Godfrey Robson, 2009 (www.icap.org/Publications/WorkingTogether)

^{vi} Manning et al., 1995; Kenkel, 1996; Heyman, 1996, 2000.

^{vii} Mäkelä, P., Bloomfield, K., Gustafsson, N.-K., Huhtanen, P., & Room, R. (2007). Changes in volume of drinking after changes in alcohol taxes and travelers' allowances: Results from a panel study. *Addiction*, 103, 181–191

^{viii} CEBR (2009) Minimum Alcohol Pricing: A Targeted Measure? June 2009, Centre for Economics and Business Research, London)

^{ix} p12 Safe, Sensible and Social – consultation on further action, Department of Health, July 2008

^x Department for Transport data, published at:
<http://www.statistics.gov.uk/STATBASE/ssdataset.asp?vlnk=3679>

^{xi} Drinkaware website: <http://www.drinkaware.co.uk/media/press-releases/2009-press-release-archive/drinkaware-receives-over-5million-in-support>

^{xii} <http://www.portmangroup.org.uk/?pid=26&level=2&nid=335>

Alcohol etc. (Scotland) Bill

**Society of Independent Brewers (SIBA)
(Scottish Region)**

Introduction

SIBA was founded in 1980 as the Small Independent Brewers Association by 20 pioneering microbrewers. Today, it has around 450 members, the majority of them classed as 'micro' or 'local' brewers and its growing credibility and campaigning success – particularly achieving the introduction of Progressive Beer Duty in 2002 – have established it as one of the most authoritative bodies in the brewing industry. SIBA was renamed as the Society of Independent Brewers in 1995, but retains its original acronym. In Scotland SIBA represents 27 brewers across the country.

SIBA represents brewer's interests and concentrates its campaigning on production related issues. The smaller brewers who founded the organisation did not operate their own outlets, instead relying entirely on free trade opportunities. Over the past 30 years SIBA has avoided involvement with retailing issues and aligned itself with the British Beer and Pub Association (SBPA in Scotland) to represent the industry, given their understanding of the issues and the large number of pubs their members operate. SIBA's position however has always been to support the pub, over 90% of SIBA members production is sold through pubs and this therefore remains our key area of concern. With that in mind we are pleased to see those parts of this Bill that recognise the issues caused by the way in which the off trade operates, and would voice concern at those areas that further burden a hard pressed pub industry whilst allowing off trade outlets to avoid scrutiny.

We have therefore only commented on those sections of the bill we believe directly affect our members and their ability to trade.

Pricing of alcohol

SIBA recognise the potential benefits of minimum pricing, particularly the removal of loss leading offers which hugely disadvantage the on trade. However we also recognise the unfairness of this form of intervention which would be detrimental to those moderate drinkers who do not contribute to the problem. It is SIBA's contention that an investigation of the potential methods for banning below cost selling of alcohol would be a much better solution than minimum pricing. Given the excessively high rate of duty in the UK it is difficult to understand why a higher price for alcohol would reduce the harmful use of alcohol, far better to look for more sensible taxation policies which promote moderate consumption. SIBA notes that in the Policy Memorandum accompanying the bill that the Scottish Government appears to support further moves towards equivalence across duty rates, suggesting this would benefit the Scotch Whisky producers. A further move towards equivalence is, in our view, ill conceived and is likely to have disastrous consequences. Low alcohol fermented beverages, which cost much more to produce and transport

than high alcohol spirits, must surely be promoted as an alternative to more harmful products, not penalised. It should be borne in mind that Scottish brewers also use local ingredients, local suppliers and local labour to produce a product as rich in heritage as Whisky. When considering benefits to the whisky industry it should be remembered that the other spirits and alcopops benefit in exactly the same way as whisky would, potentially further exacerbating the issues this bill sets out to deal with.

The sledgehammer is not the best tool for nut cracking! It is time to search out the correct policies for changing the habits of a minority whilst coercing the majority to understand the dangers of excess. SIBA promotes a policy of a reduced duty rate for lower strength beers, this represents a more balanced, fair and pragmatic approach to reducing harm caused by alcohol. It is not the whole answer but then the unintended consequences of heavy handed legislation could be far worse.

Social responsibility; levy on license holders

It is SIBA's view that this proposal is fundamentally unfair, it seems to have a presumption of guilt at its very heart which suggests that all licensed premises are part of the problem. It is our contention that the pub is part of the solution not the problem. Supervised community hubs that are well run can reduce the costs of incurred by government. Many pubs already have to deal with "policing" the issues caused by those consumers who have "pre-fuelled" on cheap off trade alcohol.

The contribution already made by the industry to government should also be highlighted. Excise Duty, VAT, Business rates, corporation tax and employment taxes from Brewers and licensees are huge, again the contribution made by the on-trade already exceeds the off trade given the higher level of VAT and the larger number of staff employed.

Conclusion

SIBA is exceptionally grateful for the opportunity to offer our views and we are keen to engage further should the opportunity arise.

Alcohol etc. (Scotland) Bill

Consumer Focus Scotland

The Committee is seeking evidence on:

- The advantages and disadvantages of establishing a minimum unit price for alcohol
- The level at which such a minimum price should be set;
- The rationale behind the use of minimum pricing as a tool to address problem drinking;
- Possible alternatives to a minimum unit price;
- The pros and cons of introducing a social responsibility levy on pubs and clubs in Scotland;
- The justification for licensing boards to raise the legal alcohol purchase age to 21;
- The role of promotional offers and material in encouraging the purchase of more alcohol than intended; and
- Any other aspects of the Bill.

We only comment on the issue of minimum pricing in this evidence.

Summary of Consumer Focus Scotland's position on minimum unit price

Consumer Focus Scotland takes the position that it is only justifiable to interfere in otherwise functional markets when there is clear evidence of the benefit of doing so in terms of the public good. At the same time, there must be no significant consumer dis-benefits.

There is clear evidence of the social costs of excessive drinking in Scotland, and strong evidence that consumption is affected by price. There is some evidence that introducing a minimum unit price will have an impact on under-age drinkers and on younger binge drinkers, who are more likely to drink cheap alcohol.

While we have some concerns that a minimum unit price for alcohol will impact disproportionately on lower income consumers, we nonetheless think it is worth introducing a minimum unit price in an attempt to tackle the drinking behaviour of very young drinkers, and harmful drinkers.

It is however essential that this is recognised as being only one part of a wider coordinated programme of education, social marketing, and other mechanisms to discourage irresponsible and reckless drinking. Consumer Focus Scotland takes the view that behaviour change in this area will take a long time, and a variety of approaches will be needed if Scotland is to tackle the social costs of alcohol and change behaviour.

If a minimum unit price is introduced, the Scottish Government should make a commitment to reviewing how the policy impacts on moderate drinkers living on a low income, and monitoring the impact of the policy on overall levels of

alcohol consumption and associated harm. The following sections outline our position in more detail.

When is intervention in a functioning market justifiable?

Our position is that there should be a presumption against such interventions unless there is clear evidence of the impact which this would have on a public good – whether that is defined in terms of public health, law and order or cost savings in public services, and no significant consumer disbenefits.

Those in favour of minimum prices argue that there is considerable evidence of ‘externalities’ in this market. The cost of alcohol-related harm in Scotland has been estimated at £2.25 billion a year¹, impacting on employment, criminal justice and health, as well as inflicting personal harm both directly and indirectly on members of society. Recently published evidence shows that, on a global basis, one in 25 deaths are alcohol related². This includes deaths from mouth and throat cancer, breast cancer, violence, road accidents, alcoholic poisoning, stroke and suicide. In addition, it is argued that consumers may not be fully rational in their alcohol consumption decisions, for example not taking into account the risk of addiction. Consumer Focus Scotland believes that this evidence of the social impact of alcohol justifies an intervention in relation to price.

Will a minimum unit price for alcohol will have the desired effect?

There is evidence for both tobacco and alcohol that there is a clear relationship between price and demand. Despite the addictive nature of alcohol, there is evidence from the USA that price and level of taxation of alcohol is directly linked to the level of consumption³. The effects of price rises are large compared with other policies and prevention programmes. In Europe there is similar research showing that the most effective measures in reducing alcohol consumption are price, availability, drink driving measures and other short term interventions. Education and mass media campaigns have proved less effective⁴.

The Scottish Government proposal is not for across the board price increases, and the introduction of a minimum unit price for alcohol must be recognised as only a partial measure, which is likely to impact on some people considerably more than on others, and may have only a limited impact on the overall trend towards increasing consumption of alcohol.

A study carried out for the Department of Health in England (known as the Sheffield study)⁵ reviewed the evidence on the relationship between different

¹ Scottish Government, Cost of alcohol use and misuse in Scotland, 2008

<http://www.scotland.gov.uk/Publications/2008/05/06091510/0>

² J Rehm et al, “Global burden of disease and injury and economic cost attributable to alcohol use and alcohol-use disorders”, *Lancet*, vol 373; 9682 p 2223-2233

³ Wagenaar et al, Effects of beverage alcohol price and tax levels on drinking: a meta-analysis, *Addiction* vol 104, 2009

⁴ Babor et al, *Alcohol: no ordinary commodity*, 2003 OUP; Anderson and Baumberg, *Alcohol in Europe: a public health perspective*, 2006

⁵

http://www.dh.gov.uk/prod_consum_dh/groups/dh_digitalassets/documents/digitalasset/dh_091383.pdf

policy interventions, including price, and alcohol consumption, with particular reference to their impact on the groups considered most at risk: underage drinkers; young adult binge drinkers (18-25); harmful drinkers (those drinking more than 35 (women) or 50 (men) units a week); and those on low incomes. This study was followed by a similar study in Scotland.

The studies reached several conclusions, including the following:

- There is strong and consistent evidence to suggest that price increases and taxation have a significant effect in reducing demand for alcohol.
- There is strong evidence to suggest that young drinkers, binge drinkers and harmful drinkers tend to choose cheaper drinks. There have been no studies of low income consumers.
- There is low quality evidence that minimum pricing might be effective in reducing consumption of cheap drinks. There is also evidence that such a policy may be acceptable to many members of the community.

The researchers estimated that the value of harm reduction in Scotland would be £950k if a minimum unit price of 40p was set.

Behaviour and culture cannot be changed overnight

While there is evidence of a direct relationship between price and consumption, there are other factors which need to be borne in mind. It is generally accepted that alcohol is an integral part of Scottish culture. Lessons from other fields show that effecting behaviour change requires a wide range of approaches, including awareness raising, education, legislation and continuing support for behaviour change. Researchers from the Institute of Social Marketing at the University of Stirling have argued that changes in social and personal attitudes to alcohol will need to look beyond traditional public health responses to approaches in other fields which have been successfully used to influence attitudes, behaviour and policies.⁶

Recent work by the Joseph Rowntree Foundation⁷ has shown that patterns of drinking behaviour are complex. Binge drinking levels changed little between 1998 and 2006 in Great Britain but this masked an increase of 7 per cent in women – especially those over 25 – and a fall amongst men aged 16-24. The proportion of women who binge-drink almost doubled between 1998 and 2006 and is now at 15%. Researchers also found that whilst fewer children are drinking, those that do drink are drinking much more than they did in the past. Other recent evidence⁸ shows that among 11-15 year olds who drink, consumption has gone up from 5.3 units a week in 1990 to 12.7 in 2007 and 14.6 last year.

⁶ M Stead et al, *Changing attitudes, knowledge and behaviour: a review of successful initiatives*, Joseph Rowntree Foundation, 2009

⁷ L Smith and D Foxcroft, *Drinking in the UK: and exploration of trends*, Joseph Rowntree Foundation, 2009

⁸ Guardian, 25 July, 2009, page 28

What is the impact of minimum prices on disadvantaged or low income consumers?

In general, any minimum price policy is likely to have more impact on low income consumers. The price rises caused by a minimum unit price will vary between types of alcohol. If the unit price was set at 50p, a bottle of wine would cost at least £4.50 and a bottle of vodka or whisky would cost around £13. It is currently possible to buy a bottle of wine for under £3, and a bottle of vodka for £6. A 3 litre bottle of cider at 5.5% alcohol would cost at least £8.50 as opposed to £3.99 for which it is currently available. It is currently possible to buy four cans of own brand lager for 91p. These would cost around £4 with a minimum unit price. The research carried out by the University of Sheffield suggests that if the unit price was 50p moderate drinkers would only pay, on average, an extra £12 a year whereas harmful drinkers, because they buy so many more units, would pay an extra £163 a year on average.

However, these average costs mask considerable variation. With a minimum unit price of 50p, someone buying two bottles of wine at £3.50 every week would see their annual bill rise from £354 to £468, whereas someone buying five bottles of wine a week at £6 would see no increase in their bill. A moderate drinker on a low income buying 4 cans of own brand lager a week would see their costs go from £52 to £208 a year, an almost fourfold increase. Anyone drinking primarily in a pub or restaurant would see no difference in their outgoings.

The impact of a minimum unit price on people living on a low income needs to be monitored. While the cost of alcohol is likely to rise for those on a low income, it is possible that there will also be benefits associated with this policy, for example if levels of alcohol related violence are reduced, or if supermarkets use other goods as loss leaders if they are no longer to use alcohol in this way.

The need for UK wide action

It is likely that a minimum unit price will be more effective if there is a consistent policy throughout the UK. It is encouraging that the Health Select Committee of the UK Parliament has come out in favour of a minimum unit price for alcohol. This suggests that there is a significant body of opinion which recognises the potential benefits of such a policy.

Price: at what level should a minimum price be set?

It must be borne in mind that a minimum unit price for alcohol is unlikely to have any effect on the level of drinking in on-sales premises like pubs and clubs, where the prices are already higher than any likely minimum price. It is also unlikely to have any effect on certain products which already cost more than 70p per unit, such as Buckfast tonic wine which is associated with harmful drinking and violence in the west of Scotland. Consumer Focus Scotland does not have a view on the level at which a minimum price is set, but considers it important that the level is related to the cost of products which are associated with harmful drinking and which are purchased by under-age drinkers. This is likely to be at least 40p per unit.

Alcohol etc. (Scotland) Bill

Scottish Grocers' Federation

Introduction

1. The SGF welcomes the opportunity to provide written evidence to the Health and Sport Committee on the general principles of the Alcohol etc. (Scotland) Bill.
2. SGF is the trade association for the Scottish Convenience Store Sector. It is the authoritative voice for the trade to policy makers. The SGF brings together retailers throughout Scotland, from the Scottish Co-operatives, SPAR, Keystore, Nisa and local independents. Our members sell a wide selection of products and services throughout local town centre, rural and community stores. According to recent statistics (2007) there are just over 5,600 convenience stores throughout Scotland, with annual sales in excess of £3.2 billion.
3. As responsible community retailers our members view themselves as a "good neighbour", providing a range of services and products within an attractive retail environment. They provide a lifeline and comprehensive shopping experience to some of the most isolated and vulnerable people in our society and ensure the long term viability and vitality of our high streets and neighbourhood centres which are under increasing threat from out of town developments.
4. The Scottish Government is considering a sweeping intervention in the market place, by restricting companies' ability to compete and to artificially inflate the price of alcoholic products. This intervention will lead to significant disadvantages for many Scottish consumers. It is therefore crucial that there is a credible evidence base for taking action. At this stage it is not clear what that evidence base is.
5. When considering minimum pricing, restrictions on promotions and a social responsibility levy it is important to ensure that a Scottish alcohol policy works on a fair and level playing field within a broader UK level. As the measures in the Bill would only apply to the Scottish retail sector the effect would be to have a damaging impact on the competitiveness of Scottish retailers and small retailers in particular that are unable to easily absorb the additional costs that go hand-in hand with new legislation.

The advantages and disadvantages of establishing a minimum alcohol sales price based on a unit of alcohol.

Advantages

6. An introduction of a minimum price would have a limited impact on small shops that are not able to offer very low cost promotions. Within the

grocery market it has become common practice for supermarkets to loss lead on alcohol as a means of driving up foot fall and increasing market share. Minimum price would put an end to the practice used by some in the grocery trade of selling alcohol below cost price (cost being defined as duty +VAT).

7. Minimum pricing may encourage consumers to purchase weaker alcohol.

Disadvantages

8. Minimum pricing challenges the concept of a “free market place” of which competitive pricing is the keystone.
9. The main disadvantage of minimum pricing is that it is a blanket pricing mechanism which will target all alcoholic drinks and all adults who consume alcohol. The vast majority of adults drink alcohol responsibly.
10. Minimum pricing is likely to encourage cross border shopping to the North of England which would have damaging and lasting consequences for off-sales retailers particularly those located in the south and central regions of Scotland.
11. Minimum pricing would lead to a growth of “white van man”, as consumers turn to illegal channels to purchase alcohol to avoid higher prices. However, the experience of the organised illegal trade is that it is unregulated, unlicensed and quickly dominated by illegal gangs, with international connections. This is very much the case in tobacco where the supply networks are extensive.
12. If only introduced in Scotland, minimum pricing will boost the sale of alcohol by the internet and mail order. If based outwith Scotland, these traders can offer multi-buy discounts. This would inflict further harm on small shops.

Alternatives to Minimum Pricing

13. Existing licensing laws including the Criminal Justice (Scotland) Act 2003; Antisocial Behaviour etc. (Scotland) Act 2004; Crime and Punishment (Scotland) Act 1997; Sale of Alcohol to Children and Young Persons (Scotland) Regulations 2007; and the Licensing (Scotland) Act 2005 already put in place a strong structural framework to address alcohol misuse. However, despite the wide range of legislative options available, individuals who misuse alcohol and break the law face few if any of the consequences for their actions. Most underage drinkers who attempt to purchase alcohol and the adults who try and buy it for them, are going unpunished, creating no incentive for them to change their behaviour. Until current legislation is fully enforced SGF believes there is little to be gained from creating additional legislation.

14. SGF is not aware of any convenience stores that sell alcohol products below cost and believe this practice is irresponsible. SGF would support measures that prevent the sale of alcohol below the cost price.
15. There should be closer partnership between the Government, police, local authorities, alcohol retailers and the alcohol industry in order to encourage a collaborative approach to fostering a culture which recognises that responsible, moderate consumption of alcohol can be part of a healthy lifestyle.
16. There is little difference between price and availability across the UK .¹ However, the issue of alcohol misuse is greater in Scotland compared to the rest of the UK, indicating this is a cultural issue. A long term education programme is required in order to effect a true cultural change in attitudes towards alcohol. This should be combined with targeted interventions against alcohol misuse

Social Responsibility Levy

17. SGF is concerned a social responsibility fee is essentially a tax on selling alcohol, a legal product, which would be indiscriminate and in addition to licensing fees which have increased for small retailers since the introduction of the Licensing (Scotland) 2005 Act by 667%. There will be a point at which convenience store retailers, who already have to deal with an increased burden of regulation, will be unable to continue trading.
18. A levy sends a dangerous message that no individual need be responsible for their own actions because retailers will be made to pay.
19. The Scottish Government is proposing to give a broad power to Ministers to allow local authorities enabling powers to raise supplementary taxes via the licensed trade, without adequate scrutiny. The Scottish Government has yet to provide any detailed proposals surrounding this measure.
20. The vast majority of anti social behaviour linked to alcohol is associated with the night-time economy. Police have identified two peak periods for city centre disorder, one at midnight (when the pubs come out) and the other at 3.00 a.m. (when the nightclubs close).²
21. If a levy was to be introduced it should only apply to licensed premises whose activities impact negatively on the wider community. SGF members understand the importance of selling alcohol responsibly. This is reflected in the age verification policies including Challenge 21 and Challenge 25 which responsible retailers already operate in their stores on a voluntary basis. In addition SGF members support initiatives including Alcohol Awareness Week. Alcohol fuelled anti-social behaviour does not affect every community in Scotland. It would be punitive to tax a retailer due to the actions of a small group of individuals and irresponsible licensees.

22. A large supermarket's alcohol turnover will be at least 50 times greater than that of a convenience store. This must be reflected in the level of the levy, if introduced, which must be proportionate.

Powers for Licensing Boards to Raise Purchase Age in Off Sales to 21

23. SGF believes the Scottish Government should not continue to pursue a measure which does not have the support of the public or Scottish Parliament. There was very limited support for the original measure which proposed a blanket raising of the age amongst those who responded to the consultation. In October 2008, following a Scottish Conservative Party Debate, the Parliament rejected the Scottish Government's proposals to raise the age limit for purchasing alcohol from off-licenses and supermarkets from 18 to 21.
24. There is no logic to a proposal that allows an 18 year old to drink, purchase alcohol in a pub, bar, restaurant or nightclub, drink at home or in the street but not allow them to purchase alcohol in an off-licence.
25. This proposal is counter-intuitive to the other Government legislation which permits an 18 year old to sell alcohol, obtain a personal licence as a Designated Premises Manager, train others to sell alcohol responsibly and vote, smoke, marry or join the armed forces.
26. There is no evidence to support the claim that raising the minimum age for purchasing alcohol will target and reduce alcohol misuse. The voluntary initiatives, such as Armadale, were only in place for restricted times on Friday and Saturday nights and were coupled with increased enforcement; highly visible policing; intelligence gathering on proxy purchasing; and a media strategy aimed at changing public perception.
27. Empowering licensing boards to raise the legal alcohol purchase age in the area to 21 could result in regional variations in the implementation of this policy. This could result in 18 to 20 year olds travelling to a location which does not have a ban in order to purchase alcohol. It would create confusion, conflict when sales are refused in some stores but not in others, and challenges for multiple retailers trying to abide by different regimes. Restrictions would increase bureaucracy for small retailers and costs in relation to staff training and customer notification.
28. The Bill proposes a licensing board would have a duty to assess the impact of off-sales to person under the age of 21 via a detrimental impact statement. The licensing board has the power to review this statement at any time or upon the request of a licensing forum or chief constable. The licensing board may choose to consult with retailers who will be caught up in a ban; however, they are under no statutory requirement to do so.
29. Section 9 of the Bill would enable licensing boards to apply new conditions on all or certain premises licences (e.g. in a particular geographical area) at one time. Licensing boards would not be required to hold a hearing for each premises licence to which a variation of condition was to be applied. The Scottish Government suggests this would reduce bureaucracy and costs for both the board and the trade.³ SGF is extremely concerned this

would lead to licensing boards having the ability to make unilateral decisions with no recourse for retailers. This is disproportionate and unfair for retailers running highly responsible businesses, who through no fault of their own are located within a geographical area in which the licensing board believes off-sales to under 21s is resulting in a detrimental impact on that community.

30. SGF understands a judicial review would be the only means of overturning the decision. The cost associated with a judicial review would be prohibitive for any small independent retailer.

The Role of Promotions and Promotional Material

31. These restrictions are an anti competitive blunt instrument and will place small shops at a greater disadvantage.

32. Promotions do not create excessive consumption. They offer shoppers good deals and value for money alongside other groceries. Promotions are intended to drive up footfall and increase a retailer's business.

33. A supermarket will obtain lower prices from a supplier due to economies of scale and greater bargaining power, than a small shop can achieve.⁴ Small shops cannot compete with supermarkets on price. Promotions are one of the few marketing tools small shops can use to compete with the supermarkets. If promotions are to be restricted and a pricing mechanism is not introduced to prohibit below cost selling, supermarkets could circumvent promotional restrictions by offering lower unit prices. This would be extremely damaging for small shops that would be unable to compete. The closure of small shops would have a detrimental affect on many communities across Scotland.

34. SGF would support the banning of the word "free" in promotions but wish to retain the ability to offer promotional activity. As stated earlier we would also support a ban on below cost selling.

35. Part 1 (2) of the Bill could result in retailers no longer selling an alcohol product as a single unit. Customers would be required to buy a larger amount.

36. Part 4 of the Bill restricts promotional activity to the designated alcohol area within a store. SGF is unaware of any evidence which links promotional activity in other store areas to alcohol misuse. We are also concerned that this measure does not apply to the on-trade.

37. For small independent convenience store retailers window bills and promotional leaflets represent the only realistic method of advertising their special offers or promotions whilst large operators can afford radio, national newspapers and TV advertising. Any restrictions on promotional material relating to alcohol should apply across all forms of media or not at all.

38. Leaflets are an important method for small retailers to advertise promotions. Retailers distribute leaflets in their surrounding neighbourhood and have them available in the store itself. Occasionally leaflets are personalised for each store. The leaflet will advertise promotions on a variety of different products including alcohol. On average 10% of a leaflet is taken up by alcohol promotions. It would not be cost effective for a small retailer to produce two separate leaflets (one for grocery promotions and another for alcohol). Without these leaflets small shops would be placed at a significant disadvantage to a supermarket that has the budget available to fund television and radio advertising.
39. Many retailers affiliated to a symbol group e.g. SPAR take part in national promotions which include the supply of point of sale materials. If the measure in the Bill was introduced, Scottish retailers would no longer be able to do this and would incur additional costs if required to produce Scotland specific marketing materials.
40. If restrictions were placed on promotional leaflets it could lead to supermarkets diverting marketing spend to additional TV and radio advertising which would place small shops at a further disadvantage.

Age Verification Scheme

41. SGF members already operate age verification schemes in their stores including Challenge 21 and Challenge 25. SGF would support the mandatory introduction of age verification schemes. However, we would oppose prescriptive guidelines. SGF would welcome the use of an existing scheme as the template for an age verification policy and would encourage the Scottish Government to work closely with the retail sector on its development.

SGF would welcome the opportunity to provide oral evidence to the Health and Sports Committee. If you require any further information please do not hesitate to contact either John Drummond j.drummond@scotgrocersfed.co.uk or Katie Mackie k.mackie@scotgrocersfed.co.uk

1. Data from Nielsen Retail Tracking of Off-Trade and On-Trade Copyright Nielsen 2008
2. Dr Alasdair J.M. Forsyth, Glasgow Caledonian University (Oct 2006) Assessing the relationships between late night drinks marketing and alcohol –related disorder in public space
3. Policy Memorandum Para. 51
4. http://www.competition-commission.org.uk/rep_pub/reports/2008/fulltext/538.pdf

Alcohol etc. (Scotland) Bill

Scottish Beer and Pub Association

The Scottish Beer and Pub Association (SBPA) was originally formed in 1906. Our members are Scotland's brewing and large pub companies representing the licensed trade industry in Scotland. The main aim of the Association is to contribute to the economic and social well being of Scotland through employment, investment and training. Our members operate 1,500 of the 5,200 licensed public houses in Scotland.

The SBPA has been closely involved with the process of licensing reform and the policy aspects of tackling alcohol misuse in Scotland and SBPA's former Chief Executive Gordon Millar served on the Nicholson Committee, which was established in May 2001 and which made recommendations as to the content of the Licensing (Scotland) Act 2005. SBPA served on the Expert Reference Group (ERG), which was created by the Scottish Executive to advise it on the procedural aspects of the licensing reform and on the National Training Forum. SBPA has welcomed the opportunity to play an active and constructive role in the Scottish Government's consultations on licensing reform and continued that involvement through the Scottish Parliament's deliberations on the Licensing (Scotland) Act 2005, and now in relation to the Alcohol Etc. (Scotland) Bill.

The SBPA is a member of the Scottish Government and Alcohol Industry Partnership.

Scotland's Beer and Pub Industry

Scotland's pubs are right at the heart of every community in the country. They are a much loved part of our national culture, celebrated at home and abroad, and attract many visitors to Scotland. Every week, over a million people socialise in the nation's pubs. Most are small businesses, run by tenants, lessees and owners, with each pub contributing an average of £80,000 to its local economy. Together Scotland's pubs employ nearly 46,000 people, including individual landlords. Today's pub is as much about selling food as it is selling alcohol.

218,000 people are employed in the hospitality industry in Scotland and in the manufacture of alcohol products, including beer. 10,500 people are employed specifically in manufacturing alcoholic beverages in Scotland.

The licensed industry across the UK contributes an estimated £26 billion annually in local and national taxation, business rates, employment taxes and excise duties. The licensed trade and wider hospitality industries in Scotland contribute an estimated £2 billion to the UK Exchequer, which funds the Scottish Government's expenditure and that of Scotland's 32 local authorities.

Association Response

The Association has considered the content of the Alcohol Etc. (Scotland) Bill and would submit the following comments. These comments draw heavily on the content of our submission of September 2008 in response to the Scottish Government's consultation on its "Changing Scotland's Relationship with Alcohol" strategy document. We are content for our views to be made public.

Pricing of alcohol – Section 1 Minimum price of alcohol; and Section 2 Minimum price of packages containing more than one alcoholic product

We would offer our observations on the general principle of minimum pricing of alcohol.

We would suggest the calls for Government to use tax to control alcohol misuse are based on a false premise – there is no correlation between high tax rates and low alcohol misuse rates.

It is a matter of fact that the UK and Scotland already have some of the highest taxes and prices in Europe. Any comparison between the drinking cultures of low cost Spain and France and high cost Britain and Sweden offers clear evidence of that, high taxes and prices don't solve misuse.

SBPA believes that Government interventions on tax and price are blunt and poorly targeted. Policy should target problem drinkers, not penalise the whole population.

We note that the Scottish Government has itself accepted that *"the Scottish Parliament presently has no locus in relation to alcohol duty and taxation"* (Policy Memorandum Section 22). SBPA would therefore question the Scottish Government's ability to deliver its proposals for the minimum pricing of alcohol using the powers available to the Scottish Parliament under the Scotland Act 1998. Even if this is an option, we would highlight that there may be significant adverse consequences for the competitiveness of the Scottish pub and hospitality industries of having differential governmental policies on the fundamental issue of product pricing between Scotland and the rest of the UK. We do not believe this would be to the benefit of the industry or our customers.

We believe administrative intervention on the price of alcohol under European law can only be used as a final resort having attempted other public policy solutions, and only on the basis of clear evidence that such intervention will reduce alcohol misuse and harm. We believe it is therefore for the Scottish Government to proactively and conclusively demonstrate this in justifying the appropriateness of its proposals to the relevant competition authorities.

SBPA however is not yet convinced that the Scottish Government has exhausted other policy solutions on this issue, particularly in light of the

fact that the Licensing (Scotland) Act 2005 only came into effect in September 2009, let alone its full impact on tackling alcohol abuse fully assessed. We would highlight that in delivering the Scottish Government's proposed pricing scheme industry will necessarily be excluded by competition law from any consultation on what prices should be. This is also the view of the Scottish Government itself (Policy Memorandum Section 23). From a practical perspective, we do not believe Government or other groups outside of the industry have the necessary competence to set the price of a pint of beer. On that basis we are unable, as will other industry bodies, to offer any comment on one of the questions posed by the Committee as part of its consultation, namely *"The level at which such a proposed minimum price should be set and the justification for that level."*

More fundamentally, we believe that this blanket approach on pricing will prove detrimental to the majority of Scots who consume alcohol sensibly and responsibly, in attempting to tackle a problem relating to a minority.

Drinks promotions - Section 3 Off-sales: restriction on supply of alcoholic drinks free of charge or at reduced price; and Section 4 Off-sales: location of drinks promotions

SBPA notes that under the Licensing (Scotland) Act 2005, on sales licensed premises, including pubs, have been banned from operating a range of "irresponsible promotions" since 1st September 2009. We would highlight that off sales licensed premises have not been prohibited from operating a number of these same types of promotion, including, for example, so called "buy one get one free" offers. Whilst the Scottish Parliament was considering the Licensing Act in 2005 we highlighted this, which we viewed then as an anomaly given the very large and growing proportion of alcohol sold in Scotland from off sales licensed premises.

SBPA still views the current legal position in the Licensing (Scotland) Act 2005 as anomalous and as such we would support the restoration of a level playing field between the on and off sales sectors as regards the types of promotional activity involving alcohol which can be undertaken. We therefore fully support the policy intentions in Section 3 of the Bill. However, we must question the specific wording of Sections 3 (1) and 3 (2) of the Bill, *"(premises licences: restriction on certain irresponsible drinks promotions to apply to on-sales only), for "(b) to (d)" substitute "(c) to (e)."*

Since 1st September 2009 all licensed premises, both on and off sales, have been subject to the provisions of Schedule 3 Part 8 (3) (e) of the Licensing (Scotland) Act 2005 which includes as an "irresponsible" any promotion that, *"encourages, or seeks to encourage, a person to buy or consume a larger measure of alcohol than the person had otherwise intended to buy or consume."*

The effect of Sections 3 (1) and 3 (2) would be going forward to exclude off sales licensed premises from this provision, which they have been subject to since 1st September 2009. We are not aware of any reasonable policy justification having been given by the Scottish Government for this change and we would argue that the current provisions of Part 8 (3) (e) are as relevant, if not more so, to the off trade as they are to the on trade, and as such we would oppose this legislative change. We would therefore ask the Committee to amend Sections 3 (1) and 3 (2) of the Alcohol Etc. Bill to read:

(2) In paragraph 8(3) of schedule 3 (premises licences: restriction on certain irresponsible drinks promotions to apply to on-sales only), for “(b) to (d)” substitute “(c) to (d)”.

(3) In paragraph 7(3) of schedule 4 (occasional licences: restriction on certain irresponsible drinks promotions to apply to on-sales only), for “(b) to (d)” substitute “(c) to (d)”.

In relation to the proposals in Section 4 we would make no comment other than to highlight that those providing off sales facilities are already subject to restrictions under the Licensing (Scotland) Act 2005 in respect of the areas in which they are allowed to display alcohol.

More generally, SBPA and our members have been consistently opposed to highly aggressive promotional activity around alcoholic products, which individual pub companies and producers have been voluntarily addressing by restricting these in Scotland and through the development of best practice on promotions across the UK. Indeed, this best practice is reflected in the wording of the Licensing (Scotland) Act 2005 itself, and our members had already acted to restrict the types of promotions they operated in advance of this legislation even being passed by the Scottish Parliament in 2005.

Age verification policy - Section 5 Requirement for age verification policy

In 2006, the licensed industry across the United Kingdom launched proof of age signage for the on-trade based around signage implemented by supermarkets and off-licences. The “Challenge 21” initiative highlights that “if you are lucky enough to look under 21 you will be asked to prove that you are over 18 when you buy alcohol”. The poster campaign clearly demonstrates that the trade takes the issue of underage sales very seriously. It highlights to those under 18 that they will not be sold alcohol.

Survey results suggested that ninety one per cent of young adults knew about the pub sector’s Challenge 21 scheme, according to a YouGov poll among 18-24 year olds for the British Beer & Pub Association (BBPA). Therefore Challenge 21 has been very widely adopted by the industry and is accepted by younger customers. However, we must question what the practical benefit would be of making these provisions mandatory by amending the Licensing (Scotland) Act 2005.

Section 102 (3) of the Licensing (Scotland) Act 2005, has placed for the first time a statutory “no proof, no sale” obligation on licensees and their staff to ensure that a customer is eighteen before they can be sold alcohol. We do not see what practical benefit extending this to everyone under the age of twenty-one will bring. The law is already crystal clear and enforceable. **Our concern would be that enforcement authorities would expect delivery of a “no proof, no sale” policy in relation to under twenty-one year olds rather than accepting the legal obligations in relation to “no proof, no sale” in respect of eighteen year olds. This would clearly be well beyond the scope and intent of the Licensing (Scotland) Act 2005.**

Modification of mandatory conditions - Section 6 Premises licences: modification of mandatory conditions; and Section 7 Occasional licences: modification of mandatory conditions

We have no comment to make on the provisions of Sections 6 and 7.

Sale of alcohol to under 21s etc. - Section 8 Off-sales: sale of alcohol to under 21s etc.

In our response to the Scottish Government’s consultation on its Alcohol Misuse Strategy in September 2009 we opposed the original Government proposal to ban under twenty-one year olds from being able to buy alcohol from off-sales licensed premises.

We commented: *“SBPA must question whether the proposal to change current law and effectively ban eighteen to twenty-one year olds from being able to buy alcohol from off sales would be sensible or indeed appropriate. SBPA would not support this measure and we believe that the emphasis in tackling anti-social behaviour should be on enforcing the law as it will stand under the Licensing (Scotland) Act rather than changing it before it has even come into effect, let alone its impact assessed. It seems wholly inconsistent for the Government to consider Scotland’s young people responsible enough that they want to lower the voting age for them to 16, but so irresponsible they want to prevent them buying a beer from an off sales until they are 21.”*

We are even more opposed to the proposals contained in Section 8 of the Alcohol Etc. (Scotland) Bill and would highlight that most pubs as a result of the recent process of licensing transition to the new Licensing (Scotland) Act 2005 are now licensed for “off sales” of alcohol meaning they would come under the scope of the provisions of Section 8 of the Bill. We do not believe this was or is the Scottish Government’s intention.

This impact is reinforced by the wording of the Section which defines “off-sales” as *“the sale of alcohol on licensed premises for consumption off those premises,”* not as *“the sale of alcohol from a licensed premises only licensed to make sales of alcohol for consumption off those premises.”*

In many areas of Scotland, pubs with beer gardens make off sales of alcohol to customers so that they can go outside to consume their drink. This would mean that pubs could be faced with refusing service to an eighteen-year-old customer if they wished to drink in a beer garden, but would be allowed to make a sale of alcohol to them if they were drinking inside the pub. This we would suggest would be patent nonsense.

More problematically, allowing Licensing Boards to ban off sales of alcohol in certain parts of their areas, could lead to tension in pubs between licensees, their staff and under twenty-one year old customers whom they would be able to serve alcohol to whilst they were in the pub, but to whom they would have to refuse an off sale of alcohol at the end of an evening if the customer were going on to another event, like for example, a party.

Allowing differential age limits across Scotland for the sale of alcohol, even if these were only related to off sales, we believe would be a recipe for confusion and would inevitably lead to tension in on sales licensed premises. We therefore would repeat our long-held opposition to these provisions in Section 8 and would ask the Committee and Parliament to reject them.

Variation of licence conditions - Section 9 Premises licences: variation of conditions

We note the intent of this Section to give Licensing Boards very wide ranging powers to apply additional conditions on a “blanket basis” to all or some licensed premises within their areas. **We have a very major concern about this provision which seems to run counter to the fundamental principles of the Licensing (Scotland) Act 2005 that each and every licence application made to a Licensing Board or the consideration of issues relating to a licence should be considered on its “own merits.” Giving a Licensing Board the power to change the conditions relating to a licence without, for example having to hold an individual hearing in respect of the premises at which a licensee or applicant would be able to present their side of the case, would we suggest run counter to the interests of natural justice and would place too much power in the hands of Licensing Boards.**

The fact there would be no hearing nor any right of appeal other than by way of Judicial Review is quite simply wrong and we believe contrary to European law.

We would highlight that this change is being made now and as such this provision was not included in the original the Licensing (Scotland) Act 2005. This suggests this process was not viewed as necessary at the time the Licensing (Scotland) Act was drafted and passed, as such we would question why it needs to be included now. No reasonable explanation has been given as to why the change is now warranted or appropriate. We believe the Committee should question why this is the case and why the change is now merited.

We note the suggestion from the Scottish Government that these provisions could only be used in relation to specific Regulations. However, there appears to be a lack of clarity as to what the nature of these Regulations will be and when they will be tabled. The change seems to owe more to the needs of administrative expediency rather than administrative fairness.

We would highlight that Scottish Government Ministers have very wide ranging powers under the terms of the Licensing (Scotland) Act 2005 to amend the Mandatory Conditions which apply to all licensed premises, indeed they are using these provisions as part of the Alcohol Etc. (Scotland) Bill, we would therefore question the need for this Section and would ask the Committee and Parliament to reject it.

Licence Holders: Social Responsibility Levy - Section 10 Licence holders: social responsibility levy; and Section 11 Regulations under section 10(1): further provision

In opposing this possible provision in our response to the Scottish Government's Alcohol Misuse Strategy in September 2008, SBPA highlighted that During Stage 2 of the consideration of the Licensing (Scotland) Bill in the Scottish Parliament, Paul Martin MSP successfully moved an amendment which would have given local authorities the powers to "recoup costs" from licensed premises, including cleaning and policing costs. However, at Stage 3 of the Parliament's deliberations on the Bill, Parliament agreed to an amendment proposed by the now Scottish Government's Minister for Public Safety, Fergus Ewing MSP, removing this measure. The points the now Minister made at the time in opposing the measure are still arguments we would hold to and as such we would highlight Mr Ewing's comment as follows in the Scottish Parliament:

<http://www.scottish.parliament.uk/business/officialReports/meetingsParliament/or-05/sor1116-02.htm#Col20753>

"There are two reasons why I opposed the amendment in committee and continue to oppose the measure now.

"First, the measure is unenforceable, because it is impossible to interpret and implement. I understand Paul Martin's motivation in lodging the amendment and I do not criticise him for doing so, but the scheme that he has devised would not work. How would one calculate the increase in the cost of providing public services? For example, on policing in the city centre, how would one calculate the increased police provision that was required? With regard to the ambulance service, how would one calculate the increased number of ambulances or ambulance staff required? On refuse collection, would one have to compute the additional volume of garbage that was left as a result of antisocial behaviour? After doing that calculation, one would have to decide whether it related to one particular pub or to more than one and where the behaviour occurred, because the bill states "in the vicinity of"—[Interruption.] I hear a member's watch going off—one would have to set one's watch

accordingly to do that computation. One would have to apply the total extra cost across an unspecified number of public houses or clubs in an area. A finance department that performed that task would require hundreds of staff, and there would have to be such a department for each licensing board. I submit that the measure is unenforceable. I know that Paul Martin received the same letter that I received from the Law Society of Scotland, in which it states views broadly to that effect.

“Secondly, I argue against the measure because it is punitive, as public house premises and clubs pay the Exchequer substantial amounts of money through general taxation and, in particular, through non-domestic rates. Licensed premises pay high levels of non-domestic rates, and it is right that they should make that contribution, but if this extra cost is levied, premises will have to pay an extra tax—a Martin tax—which is a tax too far.”

The industry fully supports the more rigorous enforcement of existing laws to tackle problems of drunkenness and anti-social behaviour. SBPA believes the more rigorous and visible application of laws on drunkenness would signal that such behaviour is neither accepted nor condoned by society and would deal with many of the problems caused. Under the new Licensing (Scotland) Act 2005, Licensing Boards have far more extensive powers to address problems caused by the operation of licensed premises and Boards should use these powers to deal with problems and certainly not tolerate ongoing problems in return for financial contributions to cover the cost of such problems. Until such time as the new Act has had time to “bed in” and Boards the opportunity to use the powers they have, this proposal is premature.

SBPA estimates that Scotland’s 17,000 licensed premises already pay two billion of pounds each year to the government through local business rates, excise duties, VAT and other forms of business taxation. This year licensed premises in Scotland will pay around £150 million to Scotland’s 32 local councils in non-domestic rates. This will be further added to by contributions from the licensed industry in respect of future successful proposals for the creation of Business Improvement Districts (BIDS) in Scotland and by the estimated ten million pounds which we believe the industry will pay in licensing fees to Licensing Boards across Scotland. SBPA believes that Scotland’s licensed and hospitality industries already pay their way in meeting the costs associated with the operation of their businesses.

If the Scottish Parliament were to proceed with this proposal for blanket “social responsibility levies” then it will be penalising licensed operators who obey the law and do not sell alcohol to those who go on to cause anti-social behaviour, rather than targeting individuals who act in an anti-social manner and those rogue operators who break the law by selling them alcohol. SBPA believes this is tantamount to holding the innocent financially responsible for the actions of the guilty, which does not seem to be in any way consistent with the principle the Scottish Government is seeking to deliver.

More generally, we must question the approach being used by the Scottish Government in taking enabling powers to deliver these proposals at some point as yet undefined in the future. Whilst there are parliamentary precedents for adopting this approach, given the scale and possible significant impact of these provisions we would suggest they should be the subject of detailed scrutiny as part of a piece of primary legislation on criminal justice rather than being subject to simple affirmative resolution by the Scottish Parliament at some point in the future.

The industry has been in discussions with the Scottish Government about how “social responsibility levies” could work. These discussions have been without prejudice to the principle of whether or not the industry could support them. **The discussions have lead to a suggestion that levies could only be made to work if they were targeted at specific licensed premises that had proven to have broken the law or could be proven to be causing particular problems. Licensing Boards would then have the power to levy fees or “fines” against these specific premises. We believe only if this measure were targeted on specific problem premises in this manner could it ever be acceptable to the industry, or indeed be fair, reasonable and proportionate. Similarly, we believe any proposal would have to apply to all types of licensed premises that could be shown to be causing a problem, not least in light of the trend of younger customers “pre-loading” with alcohol bought from off sales licensed premises before they even leave their own homes let alone enter on sales licensed premises.**

On a point of detail, we must question the wording of this Section, specifically Section 10 3 (b) when it states, *“which the authority considers necessary or desirable with a view to remedying or mitigating any adverse impact on those objectives attributable (directly or indirectly) to the operation of the businesses of relevant licence-holders in the authority’s area.”* We would seek clarification as to when an *“adverse impact”* can possibly be *“attributable” “indirectly”*? We would suggest that an *“adverse impact”* should only be *“attributable” “directly,”* and as such we would suggest that this part of the Section perhaps requires to be amended for the sake of clarity.

Conclusion

In conclusion, we would note that in the Policy Memorandum accompanying the Bill, that the Scottish Government appears to endorse the concept of a unitary taxation system in relation to alcohol which it believes would benefit the scotch whisky industry (Policy Memorandum Section 22).

We would strongly refute the proposition that there should be any further move towards unitary taxation (tax based solely on alcohol content) regardless of whether or not minimum pricing were introduced. The costs of producing and delivering alcohol to the consumer in the form of a low-strength dilute beverage such as beer are considerably higher than for high-strength distilled spirit. Under the current tax

regime, spirits producers are already able to enjoy considerably higher margins than brewers and tax based solely on alcohol content would widen this gap further. It is vital excise duty is considered on a product-by-product basis. If products were competing solely on the basis of alcohol content then beer would not be produced.

Our Association welcomes the opportunity to comment on the proposals in the Alcohol Etc. (Scotland) Bill. It is likely that there will be a number of other issues that arise during the Committee's deliberations on the content of the Alcohol Etc. Bill, and indeed likely further amendments. We would of course be more than willing to supply further detailed information in response to these as required by the Committee.

As a generality we would like to see all the proposed changes, as finally approved, consolidated into one document so that the relevant law can be read together.

I trust our comments are of use and we look forward to the Committee's deliberations on the Alcohol Etc. (Scotland) Bill.

Patrick Browne
Chief Executive
19 January 2010

Alcohol etc. (Scotland) Bill

Scottish Licensed Trade Association

The Scottish Licensed Trade Association is the leading trade body representing the independent liquor licensed trade in Scotland, including Public Houses, Hotels, Convenience Stores, Restaurants and Late Night Entertainment premises. The Association welcomes the Health & Sports Committee's invitation to respond on the particular points noted in the letter of 2nd December 2009.

Minimum Pricing

The first four points focus on the issue of Minimum Pricing, something The SLTA has advocated since the Edward Health Government abolished Retail Price Maintenance over 30 years ago and our response on this is collective. The Association foresaw then, the horrendous problems which we see today, as a result of cheap alcohol, readily available and everywhere in sight. Over the last few years in particular, the dictatorial practices of the major supermarket chains, in respect of their buying power on suppliers, has driven the pricing of alcohol products into "freefall". The link between excessive drinking and promotions and deep-discounting in off-sales, particularly supermarkets is, in our opinion, the prime contributing factor we associate with alcohol problems in Scotland and must be addressed. Not only does The SLTA agree with a minimum pricing policy, this is also a view shared by the whole of the UK & Ireland Licensed Trade Association.

Alcohol was 69% more affordable in 2007 than it was in 1980 and this figure has undoubtedly increased despite duty increases brought in by the Chancellor of the Exchequer. In fact, following the last three budget increases, alcohol prices have actually reduced in the off-trade, particularly the supermarkets with their "Duty Busting" promotions. Alcohol is no ordinary commodity and should not be retailed in the same fashion as eggs, milk or tins of beans. We would question how much these necessary commodities are "subsidising" the cheap alcohol promotions in supermarkets.

Whilst retailing restrictions will have a small impact, radical minimum pricing is required in order to completely change the consumption habits of young people in particular. Minimum Price is not a panacea, but controls on pricing is the foundation for other complementary policies to be effective.

The SLTA is basically in agreement with establishing a minimum alcohol sales price based on a unit of alcohol. With regard to the principle on which a minimum price scheme for alcohol products should be established, there are a number of methodologies to identify such a price but in general, in health terms, such suggestions lead to one contributing factor, it should be linked to alcoholic strength of the product. We do recognize that there are some anomalies with such a methodology and this should be investigated further.

The level at which a minimum price should be set has to be proportionate to the problem but defining what is “proportionate” will be difficult to establish initially, as will identifying those entrusted to set the minimum price.

The 40p-50p minimum price for a unit of alcohol has been mentioned universally and The SLTA would see this as being acceptable. The University of Sheffield Model-Based Appraisal of Alcohol Minimum Pricing and Off-Licensed Trade Discount Bans in Scotland, suggests that a minimum price of 40p would equate to a 2.7% reduction in consumption. What must also run concurrently with a minimum price policy, is an effective off-trade discount ban. The Appraisal indicates that this would see an additional 2.6% reduction in alcohol consumption. The SLTA would be concerned however, if the price was to be set too high, as the problems of “bootlegging” and other black market activities would become more prevalent.

With regard to possible alternatives to effectively addressing the public health issues surrounding alcohol consumption, the Association does not see any other alternative delivering the results minimum pricing and a ban on off-sales promotions could deliver.

Those who advocate that education is the best way forward have, quite frankly, “had their chance” and obviously have not succeeded. The figures on Health, Crime and Disorder, Lost Working Days, and Underage Drinking etc. demonstrate this.

Those who advocate taxation, do not understand how the industry works. The last three UK budgets illustrate this. The large alcohol retailers do not necessarily pass on any duty increase and in a number of cases simply force their suppliers to absorb the cost. The 10 leading supermarkets have admitted to using alcohol as a loss leader and said they would continue to do so. Taxation has never resolved the problems associated with alcohol abuse and never will.

There has been a substantial change in the drinking habits of individuals over the last 30 years, from drinking in a controlled environment to an uncontrolled environment. Strathclyde Police have recently expressed their concern with this shift and have even stated that they want “people back into pubs” (the controlled environment). We would contend that the migration to uncontrolled and unsupervised consumption of alcohol has had a substantial adverse effect on potential Government tax revenues (VAT and Corporation), due to the low cost selling and loss leading practices of the supermarkets in particular. With major Government funding cut backs predicted to be the worst for 20 years, which will no doubt affect all national and local services, the opportunity of retrieving this lost revenue, through the introduction of minimum pricing would at least go in some way, to maintaining these services, the benefits of which the public might appreciate.

Social Responsibility Fee

The Scottish Licensed Trade Association does not support the basic principle of a Social Responsibility fee in the first place. We would reiterate our comments, in part, on this issue as previously submitted to the Scottish Government:-

"To begin with, we would respectfully reiterate the words of the now Scottish Government Justice Department's Minister for Community Safety, Fergus Ewing MSP. During the Stage 3 debate on the Licensing (Scotland) Bill 2005, Mr. Ewing sought an amendment to delete the fees provisions in section 127(1)(c), which were inserted following an amendment in the name of Paul Martin at stage 2 that was supported by all the Labour members of the Local Government and Transport Committee. That amendment stated that licensing boards would be able to charge fees "in respect of the recovery from particular licence holders, of sums not exceeding any increase in the cost of providing public services (including policing) which is directly attributable to activities in, or in the vicinity of, or by customers of, or staff employed in, the premises in respect of which the licence is held."

The reasons given for Mr. Ewing's continued opposition to this were:-

"First, the measure is unenforceable, because it is impossible to interpret and implement. I understand Paul Martin's motivation in lodging the amendment and I do not criticise him for doing so, but the scheme that he has devised would not work.

How would one calculate the increase in the cost of providing public services? For example, on policing in the city centre, how would one calculate the increased police provision that was required? With regard to the ambulance service, how would one calculate the increased number of ambulances or ambulance staff required? On refuse collection, would one have to compute the additional volume of garbage that was left as a result of antisocial behaviour? After doing that calculation, one would have to decide whether it related to one particular pub or to more than one and where the behaviour occurred, because the bill states 'in the vicinity of'. One would have to apply the total extra cost across an unspecified number of public houses or clubs in an area. A finance department that performed that task would require hundreds of staff, and there would have to be such a department for each licensing board. I submit that the measure is unenforceable. I know that Paul Martin received the same letter that I received from the Law Society of Scotland, in which it states views broadly to that effect.

Secondly, I argue against the measure because it is punitive, as public house premises and clubs pay the Exchequer substantial amounts of money through general taxation and, in particular, through non-domestic rates. Licensed premises pay high levels of non-domestic rates, and it is right that they should make that contribution, but if this extra cost is levied, premises will have to pay an extra tax—a Martin tax—which is a tax too far."

It would now appear that all retailers of alcohol will be included, unlike the original consultation document, where it appeared that only the on-trade sector of the industry was being targeted. However, to take this a step further, why should this proposed measure only be targeted at the Licensed Trade. However, we are still extremely concerned over the possible mechanism which may be used to calculate this “fee”. From experience, the Scottish Government’s preferred route is to base charges associated with the liquor licensed trade on rateable values. We already have serious issues with the Scottish Government in the context of “liquor licensing fees” and fear the same issue will arise with any proposed Social Responsibility fee calculated, using rateable values.

The rates are fundamentally flawed to start with, because the on-trade and off-trade pay according to entirely different ratios. The on-trade ratio is based on turnover and is on average 9% of turnover, whereas the off-trades’ ratio is based on square footage. This does not equate proportionately to supermarkets turning over millions of pounds in alcohol sales each year.

If there is to be a Social Responsibility fee, then this must be based on a system having the same scale of charges across Scotland as a whole. This will avoid the ridiculous variations in liquor licensing charges we see imposed by the various Local Councils at present, and which would be proportionate to the volume of alcohol sold.

One or two points that have also been raised on the issue of a Social Responsibility Fee are, if individual operators are to be charged for policing, will they have a say as to where that policing will be focused, to the detriment of others? If the police are called away from an area to some major incident what happens then, considering these licensed premises are paying for policing in their area? If there is a greater police presence in our city and town centres, then surely all businesses should pay for that policing as it is not only the Licensed Trade that benefits from that presence? Will the money raised actually see its way to covering the police costs or will it be diverted to some other budget? Will Local Councils take advantage of gathering extra income through this avenue in addition to police costs? The Justice Minister has suggested in the past that taxi marshals and late night buses have to be paid for by councils – will pubs and clubs now have to pay for this? With regard to taxi marshals this obviously also benefits the running of the taxi industry late at night, so surely taxis should pay towards this service through their licence. In respect of providing buses, is this not also down to individuals paying a fare to recoup the costs in providing this type of service?

Legal Age for Alcohol Purchasing

In the Committee’s letter of 2nd December calling for written evidence on the proposed Alcohol Etc. (Scotland) Bill, the points highlighted included “*The justification for empowering licensing boards to raise the legal alcohol purchase age in their area to 21*”. In the proposed Alcohol etc. (Scotland) Bill, Section 8, all references regarding the alcohol purchase age are directed

at off-sales "transactions" from any licensed premises and we assume that this is actually the case.

The Association cautiously supports this proposal based on our concerns with under-age drinking and purchases of alcohol by minors from off-sales premises. However we are of the opinion that clarification would be required on the term "locality" as stated in Section 8 (3) (1) (b) of the proposed Alcohol etc. (Scotland) Bill.

We do agree that such a proposal would not only help with the issue of alcohol related harm amongst the 18-21 age group but would also help to substantially reduce the access to alcohol for those under 18.

However, the problem of age identification would still remain a problem for licensees who already conduct their premises in a responsible manner. The new test purchasing laws now in place have obviously heightened the need to more actively seek proof of age and The SLTA is supportive of this. However, mistakes will obviously be made and fake ID's will continue to be used. What must be remembered is that only a person actually purchasing or consuming alcohol in licensed premises knows his or her own age and therefore he or she is committing an offence.

One last view on this matter is that The SLTA has always advocated that an individual should be 21 years or older to hold a liquor licence. A person between 18 and 21 under the licensing act can be deemed as a fit and proper person to hold a licence, however, this same person would not be able to purchase alcohol through an off-sales transaction should a 21 year old age limit be introduced. The SLTA also advocates that those who sell alcohol should be 18 years and over and this should be applicable to all retailers of alcohol.

Promotional Offers and Promotional Material

The Scottish Licensed Trade Association's views on irresponsible promotional activities are well documented and the Association strongly contends that "price should not be used as a marketing tool to promote the sale of alcohol". The SLTA was deeply disappointed and concerned that in the Licensing (Scotland) Act 2005 there were very lenient mandatory conditions extended to off-sales premises in respect of controlling irresponsible promotional activity. The SLTA very much welcomes the focus of the Scottish Government on the promotional activities and practices of off-sales premises, in particular those of supermarkets. It continues to be our view that the link between binge/excessive drinking and promotions in off-sales, particularly supermarkets, is the major contributing factor we see with alcohol abuse problems in Scotland.

According to the Scottish Government's previously published figures, there are 561 known supermarkets in Scotland who sell alcohol. In the 12 month period, up to September 2009, figures from Nielson and CGA, collated from licensed trade industry sales data, revealed that 68% of all alcohol sold in

Scotland is sold through the off-sales sector. Of these sales, other evidence shows that the supermarkets dominate, with only a negligible volume being sold through the “corner shop”.

Over the last five years sales from off-sales premises have increased by 8% and in the On-Sales sector, sales have decreased by 15%. In fact since 1998 UK beer sales in the on-trade have dropped by just over 36%. We know from other jurisdictions, which have a very high proportion of alcohol sales from the off-trade, that they have very high alcohol abuse problems as well. In Scotland over the last 5 years the sales of pure alcohol per person over the age of 18, have increased from 7.5 litres to 8.2 litres in the off-sales trade, but the on-sales trade has seen a decrease from 4.7 litres to 4.0 litres. This confirms again the shift from drinking in a controlled environment to an uncontrolled environment and emphasises the dramatic effect of supermarket deep discounted pricing and substantial promotional activities. This information and other recent surveys also highlight that the problems associated with alcohol abuse are not restricted to just “young people”.

There are very many well-run responsible off-sales operators in this country, however there are also some who are totally irresponsible. The prices charged, especially in the supermarkets, are quite often invitations to abuse alcohol. The supermarket industry has already been taken to task by the Westminster Government, on below-cost selling and some of the major retailers have admitted that there have been, **AND WILL BE**, occasions when this will happen. We fully support that action must be taken to end irresponsible promotions and below-cost selling of alcoholic drinks in all licensed premises.

It is fundamentally wrong to “force” customers to purchase more than they require, a practice, which in our opinion, supermarkets are actively encouraging particularly when it comes to alcohol products. Whilst obviously price is the main emphasis, what is generally ignored is the fact that supermarkets have stopped selling single bottles/cans, other than the most premium brands. The smallest possible unit of purchase of general brands being in most cases, a “4-pack”. The reason for this appears to be a practice note by the Government that the case price should be a direct multiple of the available can/bottle price.

It is also surely in the Government’s interest, albeit the Westminster Government, that below-cost selling should be banned. It is ridiculous that the Government is actually subsidising those who practise below cost selling in that such companies’ input/output VAT amounts will be reversed and they will actually be able to reclaim a proportion of the VAT on such transactions. In addition, Corporation Tax is lost on such transactions, adding to a further loss in revenue to the Exchequer.

Finally, we would also draw the Committee’s attention to an investigation conducted by Alcohol Focus Scotland in 2006 which revealed that promotional offers on alcohol by the major retailers dramatically increase both sales and frequency of customer return. Alcohol Focus Scotland approached

a number of the major supermarket and off-sales chains to request information on customer spending patterns when alcohol products were sold at reduced prices or through special offers such as '3 for 2'. It was no surprise that few provided information, but of those who did, the findings showed a clear link between off-sales promotions and how much alcohol people buy and therefore consume. The investigation revealed that sales increased by 20-25% when promotions were run; customers who bought on promotions tended to be heavier spenders than average; 83% of customers who purchased alcohol on promotion returned for a second purchase; largest uptake was among those doing their weekly shop between Friday pm and Saturday am; and wine was the most popular promoted alcohol product.

Colin A. Wilkinson
Secretary
SLTA
20 January 2009

Alcohol etc. (Scotland) Bill

NOCTIS

About Noctis

Noctis represents a wide range of businesses operating primarily within the night-time economy. We have been in operation since the early 1950s under a range of names – from the Association of British Ballrooms, to the British Entertainment and Discotheque Association, to the Bar Entertainment and Dance Association.

Over this period the membership has shifted with the many changes within on-trade retail. Now we represent night clubs, bars, live venues and a range of hybrid bars which operate in the day and night time economy, throughout the UK. One of the reasons for changing the name to Noctis in February 2008 was to acknowledge the increasing diversity of the sector we now represent. We count single site operators, small chains as well as major high street brands amongst our membership and all types of venue are represented on the current committee.

Our principle aim as an organisation is to help provide the best trading conditions for our members. This means working proactively with them, listening to their concerns and issues and devising workable solutions which will aid their businesses.

Noctis response

The advantages/disadvantages of establishing a minimum sales price based upon a unit of alcohol

Noctis has been a long-time supporter of minimum pricing (based upon alcohol unit) – although not all of our producer members are in favour. As far as UK operators are concerned however, the rise of the pre-loading issue – where people have a number of drinks (purchased from off-trade outlets) before heading out to a club or a bar, has had a major effect on the on-trade throughout the country.

According to the CGA Strategy figures published in early 2009, 71% of customers are now pre-loading alcohol before they leave the house.

This means in effect that customers are generally arriving at venues later in the evening than they were a few years ago. When questioned a large percentage of those asked say they are not visiting pubs and other feeder bars before going to a late night venue, instead they prefer to drink at home.

The most common reason why people chose to drink at home is that the differential between on-trade alcohol and that bought at the supermarket is very large. We would contend that there is a valid reason for off-trade alcohol to be a little cheaper as the associated costs are not as high, yet when off-

trade alcohol is often 5-6 times cheaper, it is very hard indeed for bars and clubs to compete.

Noctis would argue that because alcohol is being sold as a loss leader – or with a negligible profit margin this is having a negative impact on the on-trade. In Scotland on trade restrictions brought in under the 2005 Act have created an unlevel playing field where supermarkets are still allowed to discount whilst bars and clubs are not. This doesn't seem like a sensible way to foster a sensible drinking culture.

The level at which a proposed minimum price should be set at and the justification for that level

The most widely suggested price per unit is generally either 40 or 50p per unit. We would not object to this level being set. At Noctis we are keen that if a mechanism is established, then there should be a robust framework in place to ensure that once set the price is not being increased a very regular intervals.

We would argue that some of the pressure to bring in minimum pricing is from those groups which are very anti-alcohol (sometimes referred to as “neo-prohibitionists”) and therefore have a vested interest in making alcohol as expensive as it can be.

We believe that a proper accommodation has to be reached where it is deemed to be an attractive option to consume alcohol within the tightly regulated confines of an on-trade premise. At present, all the pressure (through aggressive off-trade promotions) is to encourage customers to purchase alcohol for consumption away from licensed premises.

We do not believe that this is helpful in terms of encouraging drinkers in the wider populace to consume alcohol sensibly.

The rationale behind the use of minimum pricing as an effective tool to address all types of problem drinking

As mentioned above, reducing the vast differential which currently exists between on-trade and off-trade pricing would encourage more people of drink within the tightly regulated environment of the licensed premise. Where alcohol is heavily discounted and there are no barriers to consuming whatever amount an individual chooses, (i.e. no one to refuse sale) then we believe this is not helpful in addressing problem drinking.

Possible alternatives to the introduction of minimum alcohol sales price as an effective means of addressing the public health issues surrounding levels of alcohol consumption in Scotland

The most obvious alternative to the introduction of minimum pricing would be to ban the sale of alcohol below tax and VAT. This would stop larger off-trade retailers from absorbing the cost of alcohol in order to entice customers into

their stores. By creating a more level playing field in this regard, off-trade retailer would be obliged to produce more responsible promotions.

The advantages and disadvantages of introducing a social responsibility levy on pubs and clubs in Scotland

We believe that there are already sufficient powers within the Bill to tackle irresponsible retailers and would suggest that a premises licence review application under section 36 may be a better way of dealing with problems than creating a levy which is levelled at all operators in a given area. We would argue that there is little or no incentive to strive to be a more responsible operator (i.e. above and beyond the statutory minimum) if a social responsibility levy is forced on all retailers – good, bad or indifferent.

A social responsibility fee would deter good operators from investing into their premises for such items like first-aid, CCTV, training, social responsibility. There are many examples today of operators raising the bar in this regard and ensuring safe, well run premises for the visiting public. Those operators will see the social responsibility fee as another tax and will therefore not invest further in safeguards as described. A social responsibility fee will not stop anti-social behaviour whereas the operator investing in safeguards will.

We also believe that key stakeholders should work with licensed retailers to ensure that standards are being raised, rather than taxing an already beleaguered industry.

The justification for empowering licensing boards to raise the legal alcohol purchase age in their area to 21

This proposal makes little or no sense since it firstly demonises all 18-20 year olds. We would argue strongly that if an 18-20 has access to all the other rights and responsibilities in our society at 18, then disallowing all 18-20 year olds from purchasing alcohol seems disproportionate.

We would also argue that if a location has a problem with a small number of young adults then a version of the Drinking Banning Order (recently brought in for England and Wales) may be a better solution.

**The role of promotional offers and promotional material in encouraging people to purchase more alcohol than they intended; and
Any other aspect of the Bill**

We would suggest that incentives to offer alcohol for much lower unit prices when bought in bulk than when purchased a single drinks, should be discouraged.

Paul Smith
Executive Director
NOCTIS
20 January 2010

Alcohol etc. (Scotland) Bill

Asda Group Ltd

Summary

ASDA is the UK's second largest supermarket. In Scotland we employ more than 19,000 colleagues in 49 stores and 2 distribution centres and serve around 1.6 million customers every week.

We believe that there is a requirement for a fundamental cultural change in society's relationship with alcohol. Therefore while we welcome the high priority given by the Scottish Government and Parliament to tackling alcohol misuse, we believe that the debate has been too focussed on pricing mechanisms. As a retailer we have a duty to balance the needs of a range of stakeholders, not least our customers, many of whom are on very limited incomes, who are facing current economic difficulties and who will see their disposable incomes stretched further by impending tax rises. We believe that the Alcohol Bill relies too heavily upon theoretical changes in consumption and predictions of harm reduction and does not do enough to change the specific drinking culture in Scotland. That's why we believe that pricing policies that punish the majority of people who drink responsibly and moderately are not the answer.

Our customers have made their opposition clear. A survey of 10,109 face-to-face interviews conducted with Asda shoppers in 30 stores throughout Scotland showed that 61% of respondents disagreed with the proposal to introduce minimum pricing, while 67.4% were against a promotions ban.

What is needed are tougher actions to tackle those who misuse alcohol; stricter enforcement of existing licensing laws; mandatory Challenge 25 for all alcohol purchases and better education and product labelling. Using tax and duty to target problem drinks is a much fairer approach and avoids the unintended consequences of the Bill.

Asda has already taken a number of voluntary measures such as the introduction of Challenge 25 to cut down on underage drinking, test purchasing of every store, and the voluntary removal of certain products from sale. We suggest that instead of pursuing a new tax on business through a blanket social responsibility levy, the Scottish Government should take the opportunity to drive up standards and take targeted action to tackle alcohol misuse through a Social Responsibility Agreement including a Social Hurdle.

The Licensing Scotland Act 2005 allowed several years transition. Given the major impact on alcohol retailing of the provisions in the Bill we believe that there must be a minimum transition period of between 12 and 18 months to allow businesses to plan and manage any changes that the Scottish Parliament approves.

Changing Consumption

The notion alcohol has become cheaper is actually caused by an increase in affordability – it is not that alcohol in itself has got cheaper. ONS figures show that since 1987 alcohol price inflation has exceeded RPI and has risen substantially more than food inflation. However, average earnings have gone up faster than RPI making alcohol more affordable. The price of alcohol in Scotland has risen over the past 4 years in both the on and off tradeⁱ.

Drinking in the home is now an established social norm. The Joseph Rowntree Foundation report *A minimum income standard for Britain*ⁱⁱ sought to establish what the public considered was necessary to achieve an acceptable standard of living. The report considers four different household types: single working age, pensioner couple, couple with two children and lone parent with one child. Focus groups decided that for each household type some level of spending on alcohol was necessary to achieve an acceptable standard of living (p.18). In the case of a couple with two children, it was decided that only alcohol for consumption in the home was a necessity (p.33). Their findings remain true in this year's reportⁱⁱⁱ and additionally the report notes that focus groups suggested there is now a lower expectation about how often working age people go out for entertainment^{iv}.

It is plain to see that there has been a wider cultural shift away from the pub as the hub of the community. This has been exacerbated by some external factors including the ban on smoking in public places. Increasingly we hear from our customers of their desire to socialise with friends and family in what they see as a safer, more controlled home environment. Fear of antisocial behaviour, greater awareness and enforcement of drink driving laws, the growth of dinner party culture and an explosion in digital broadcasting and compelling TV scheduling are just some of the factors driving the growth in consumption of alcohol in the home.

It has been suggested by some that pubs are a safe, well regulated drinking environment and that shifts to home drinking are therefore negative because the home setting is unregulated. That is not the view of many of our customers who believe the opposite to be the case. They view drinking with family and friends in the home as an inherently safer choice than drinking in town and city centres which they see as a riskier option, bringing them face to face with antisocial behaviour and crime. We believe that these wider social and cultural changes better explain the shift away from pubs to home drinking than a simplistic argument on pricing policy. We also note that while there has been a shift in consumption from on trade to off trade, overall consumption has not increased since 2004.^v

Minimum Pricing

We believe that there is a real danger that minimum pricing is seen as a 'silver bullet'. This over concentration on price mechanisms neglects some of the wider social and cultural factors behind alcohol consumption. It is self evident

that there is some link between price and consumption, however we believe that this case has been overstated. Ultimately the extent to which minimum pricing would change consumption depends on the level set, but we are sceptical that at 40 or 50p per unit significant behavioural changes would follow.

Price rises would penalise hard working families on low incomes. It must be remembered that pricing is subjective and that for low and fixed income groups lower prices and promotions offer great value and make alcohol affordable within a fixed budget. For customers on job seekers allowance or on the basic state pension then prices are not 'cheap' they are affordable. Minimum pricing is essentially a regressive policy as it will add to the costs of the lowest income households yet make little difference to middle and high income households. Responsible drinkers on a budget will be hit more than irresponsible drinkers with higher incomes.

There are six key reasons why Asda does not support the introduction of minimum pricing in Scotland.

- 1. The responsible majority should not be penalised for the sins of the minority.** In the UK 7% of the population drink 33% of the alcohol. We believe that this requires a targeted approach which identifies those who have a disproportionate impact on society and attempts to address their behaviour based on a proper understanding of the social and cultural factors which influence that behaviour. We are concerned that the most responsible, law-abiding consumers are the ones who will lose out, and that individuals who create public order disturbances will continue to do so. In particular, it would be wrong if new regulations were to hit responsible drinkers in low income groups. Regulation must recognise that there is a role for personal responsibility in tackling alcohol misuse. It is how individuals consume alcohol that is important and ultimately whether a can of lager costs 50p or £3, there is no excuse for somebody to drink to excess, or engage in anti social behaviour.
- 2. Minimum pricing privatises the profit and socialises the loss.** The Scottish Government predicts that drinks industry profits will be boosted by a 40ppu minimum price to the tune of £130 million a year. This is a direct transfer from consumers to the drinks industry which does not deliver a single additional penny to the public purse to invest in tackling alcohol misuse. The financial memorandum states that a 40ppu minimum price and promotions ban would lead to a reduction of £12 million per annum from the Scottish budget through lost duty and VAT receipts. Over three years that amounts to more than a quarter of the £120 million budget for tackling alcohol misuse. We believe that consumers will find this hard to understand.
- 3. We are sceptical that theoretical modelling will deliver real world results.** Minimum pricing is a system which exists in no comparable country on a nationwide basis. The Sheffield research for the Scottish Government predicts that a minimum price of 40ppu will reduce consumption among harmful drinkers by 5.7% and cost them an additional

£2 per week. It does seem unlikely that a man drinking more than 22 pints a week will reduce his consumption by less than 2 pints a week due to a price increase of £2 a week. The model predicts a reduction in deaths, illnesses, crime, and workplace absence from a 2.7% reduction in consumption. Yet consumption in the UK has reduced by 6.1% since 2004 without these benefits being visible.

4. **Some of the assumptions in the modelling are questionable.** In calculating the small increase in cost to moderate drinkers, the model uses an average of moderate drinkers (5-6 units) rather than average consumption levels for all drinkers which is 16 units. The model is based on 2003 figures and not the most recently available 2008 health statistics which show a significant reduction in alcohol consumption already.
5. **What is the optimal price per unit for alcohol for improving health?** The current debate is somewhat misleading. It is clear that the health lobby favour a much higher level than the 40p which has been provided as an example. Similarly Ministers have criticised a major pub chain for selling a pint for 99p as being “ridiculously low” yet at 40ppu the pint could be sold legally for around 90p. The Scottish Government should be unambiguous about the level it intends to set minimum pricing now to allow a proper informed debate. We note that if public health is the key objective, the Explanatory Notes predict a 70p level would lead to a reduction in consumption more than seven times greater than at 40p.
6. **Finally, minimum pricing has a number of significant and undesirable unintended consequences.** The Scottish Government has confirmed that it cannot stop internet sales and that there will be cross border trade. The Justice Secretary has described these as “relatively minor issues”. We disagree.
 - a. **Cross border trade is significant** as demonstrated by our experience in Northern Ireland. As well as being the top performers in the chain, our border stores significantly outperform our Scottish stores on alcohol sales with many customers driving over an hour and a half from Dublin. Importantly when they travel they also do a wider grocery shopping. Retailers with no physical presence in the Republic of Ireland now have almost 2% of the grocery market due to cross border trade. The Irish Government recently responded by reducing alcohol taxes.
 - b. **The internet is a fast growing market** and these regulations will provide a boost to that growth. It is inconceivable that customers will not turn to internet sales if a significant price gap opens up between Scotland and England. This also raises the prospect of a digital divide where often lower income groups will be faced with higher prices, while more affluent consumers will avoid price hikes through internet purchases. It will put Scottish businesses at a competitive disadvantage.
 - c. **Major price differences with England promote black market sales** through both organised crime and ‘white van man’ deliveries, often in the most deprived areas. A combination of minimum pricing and promotions ban in Scotland is likely to lead to a significant difference in prices with England allowing alcohol purchased legally in England to be sold on at a

profit even taking account of transport costs. It will also be easier for counterfeit alcohol to be passed off as cheap alcohol from England.

Alcohol Promotions

We are concerned that proposals to ban alcohol promotions will simply add cost to our customers, particularly those on a low and fixed income, with little evidence that it will reduce alcohol misuse and problem drinking. It is clear that promotions in the off trade are different to the on trade. Promotions in the on trade are de facto about immediate consumption – an additional bottle of beer, free pint or glass of wine, or double for the price of a single cannot be taken off the premises. It can only be consumed there and then. Promotions in the off trade on the other hand are often used by customers who are seeking good value but who purchase the alcohol with a view to consuming it over a longer period of time or with a wider group of family and friends. When a customer takes advantage of a quantity discount, it does not mean that they will consume that alcohol immediately. Indeed many customers stock up and consume alcohol over weeks or months. That is a fundamental difference.

Asda does not support a ban on promotions as currently proposed, however if one is to be introduced we believe that the following flaws and dysfunctional elements must be addressed if it is to be meaningful.

- 1. Introducing linear pricing will simply drive manufacturers, retailers and customers to larger pack sizes.** The proposal that the minimum price of packages containing more than one alcoholic product must not be less than the combined retail price of the individual alcoholic product in the package is hugely flawed. The Policy Memorandum explains that it would mean that a case of 24 cans of beer could not be sold for less than the costs of buying those 24 cans individually. However, Asda does not sell single cans or bottles of beer other than speciality products. The logic of such a position is that stores and manufacturers will cease to stock individual cans or small packs and pack size will increase.
- 2. The Bill still allows alcohol to be included ‘free’ as part of a deal.** There is nothing in the legislation to stop a promotion which provides a benefit to customers of the same amount or more than the cost of the alcohol they purchase. For example it would be perfectly legal to run a promotion such as “Buy a bottle for a fiver and get a fiver off your shopping”. We understand attempts to allow alcohol to be included as part of meal deals, however in so doing the Bill leaves a number of major loopholes.
- 3. The Bill fails to create a level playing field.** There is nothing in the Bill to stop the use of vouchers or loyalty cards to continue providing a discount for quantity purchasing or providing alcohol free of charge. We believe that the Scottish Government should give careful consideration to this matter. It seems at odds with the policy objectives of stopping promotions if companies can provide discounts using loyalty cards, vouchers or gift vouchers to provide alcohol free or at a reduced price.

- 4. The principle of no advantage in purchasing alcohol should be considered.** If the Scottish Parliament wishes to see a ban on promotional activity involving alcohol, we believe that it should consider a ban which makes it clear that customers should not receive any incentive or additional benefit from purchasing alcohol. Without this principle, there is a risk that one type of promotional activity involving alcohol will be substituted for other more creative approaches.

No Promotional Material outside Alcohol Aisles

We believe that limiting promotional material to the alcohol areas is unnecessary and ineffective regulation. Why should an alcoholic product which is not on a quantity discount nor below the legal minimum price not be advertised? There are a number of anomalies and unintended consequences which must be addressed:

- 1. The Bill would ban display of newspapers and magazines which include alcohol advertising.** The display and sale of newspapers surely must be allowed to continue.
- 2. The Bill could also ban the provision of our instore Asda Magazine and Asda FM radio station.** The Asda magazine has a UK wide readership and covers a wide range of topics of interest to our customers including information on products, recipes, wine selections, healthy eating advice, tips on helping the environment and much more. To ban this magazine from being given to Scottish customers because it includes reference to alcohol would be ridiculous and would fly in the face of a range of other Government priorities.
- 3. The Bill allows for alcohol branded products to be displayed throughout stores.** A manufacturer branded t-shirt could be displayed anywhere in the store but an advert for the same product would be illegal. Equally, under the existing regulations only alcohol and soft drinks (or products packaged with alcohol) can be displayed in the alcohol aisle. This means that bottle openers cannot be displayed in the alcohol aisle. Yet the Bill would allow a manufacturer branded bottle opener to be displayed but a non branded product would still be banned.
- 4. The definition of 'vicinity' requires clarity.** There has been a suggestion that flyers and promotional material delivered near to where we have a store could be deemed to be 'in the vicinity' and therefore banned. Not only does this make little sense, but it raises competition issues. It must also be made clear that retailers can only be held responsible for their own advertising in the vicinity of stores and not advertising by a third party over which they have no control.

Raising age to 21 for off sales on local basis

We are strongly opposed to this proposal. It will lead to confusion for customers and colleagues across the country. It has the potential to

undermine customer understanding and support for the highly successful Challenge 25 initiative. It raises significant competition issues if one operator has to comply but another across the road does not. We also reject the idea that 18 to 20 year olds are competent to purchase alcohol in a pub but not from a supermarket as part of a weekly shop. It is bizarre to ban a couple of 19 and 20 with a young baby from purchasing a bottle of wine to consume at home but to allow them to consume in a pub. It is unfair and discriminatory.

Social Responsibility Levy – A Different Conversation

Rather than introduce a new tax, we believe that the Scottish Government should take the opportunity of a different conversation with industry. We recommend a Social Responsibility Agreement on Alcohol – or a Social Hurdle – as we believe this would be more effective in driving up standards and taking targeted action to tackle alcohol misuse.

We certainly do not believe that it would be fair or logical to introduce a new blanket tax aimed at ‘those who profit from the sale of alcohol’ which does not apply to the manufacturers of alcohol who clearly derive significant profits from alcohol alone. Our sales also include a number of products and services which support key government initiatives such as the provision of affordable healthy produce, fruit and vegetables. The Licensing Act provides authorities with ample provisions to penalise operators who do not comply with the law. We also believe that it is impossible directly to prove a link between antisocial behaviour in town centres and alcohol purchased from our stores. It is a dangerous route for government to effectively ignore personal responsibility.

The Government has provided no indication of the level the levy will be set at or how it would be determined. However, we are concerned that a potentially expensive new tax will lead to higher prices for consumers and present Scotland as a more expensive place to do business. It is clear that the levy approach risks being a zero sum game with no incentive for retailers to fund additional activity. For example Asda has already provided £20k of funding for an antidisorder youth bus in Glasgow. The Government risks throwing the baby out with the bathwater.

In contrast, the introduction of a Social Responsibility Agreement on Alcohol with industry could offer an alternative and potentially more effective approach. Such voluntary approaches can and do work. Challenge 25 is a voluntary and very successful industry initiative. Within the aim of reducing alcohol related harm, it could include:

- **reducing underage sales** (including mandatory cross industry Challenge 25; an increase in industry test purchasing ; joint working to highlight existing offences of attempting to purchase when underage)
- **tackling antisocial behaviour** (through requirements for licensees to develop anti abuse & disorder plans; support for diversionary projects for young people)

- **improving information to consumers** (through innovative measures to improve information and education at point of sale and through product labelling; a Scotland specific awareness raising campaign under Drinkaware)
- **enforce the existing laws** with much closer and more effective working between retailers and relevant public authorities (e.g. proxy purchasing / selling to people under the influence / underage sales)
- **working with industry to improve education and raise awareness** (targeting problematic alcohol consumption among different groups of people; sharing industry information on consumption and purchasing trends and looking at best practice across the world on education and social marketing approaches)
- **support for nationwide rollout of Community Alcohol Partnerships** and further development of alcohol intervention programmes

All licensees would be liable for a levy unless they could demonstrate that they had 'cleared the social hurdle' in which case they would be exempted from the levy. For businesses that do not respond, the levy could be added to existing licence fees until they meet the social hurdle requirements.

David Paterson
Scottish Affairs Manager
ASDA
20 January 2010

ⁱ Monitoring and Evaluating Scotland's Alcohol Strategy (MESAS); Analysis of alcohol sales data, 2005-2009; January 2010

ⁱⁱ Joseph Rowntree Foundation – *A minimum income standard for Britain*, July 2008. p18

ⁱⁱⁱ Joseph Rowntree Foundation – *A minimum income standard for Britain*, July 2009. p24

^{iv} Joseph Rowntree Foundation – *A minimum income standard for Britain*, July 2009. p21

^v Monitoring and Evaluating Scotland's Alcohol Strategy (MESAS); Analysis of alcohol sales data, 2005-2009; January 2010

Alcohol etc. (Scotland) Bill

Morrisons

Morrisons retailing of alcohol in Scotland

- Over £1 billion worth of investment in Scotland with 56 stores and over 12,000 employees.
- 120 different alcohol products manufactured and sold in Scotland.
- 24 suppliers of alcohol manufacturing in Scotland (30 single malts).
- Over 1 million customers a week.

1. Introduction

- 1.1 Morrisons welcomes the opportunity to respond to the Health and Sport Committee consultation on The Alcohol etc. (Scotland) Bill. This response highlights some of the measures Morrisons is taking to help people drink responsibly; and comments on how the Government could target the minority of people who misuse alcohol without penalising the majority of the people of Scotland.
- 1.2 As a retailer, our business depends on understanding our customers and meeting their needs and aspirations. We are well placed to respond efficiently and effectively to changing customer preferences and to help manage responsible attitudes towards alcohol. Any intervention by the Scottish Government to how alcohol is currently retailed should work with the market, and in particular ensure that any distortions do not skew the market unfairly; or adversely affect the majority of Scottish people who do drink responsibly.

2. Morrisons – Retailing alcohol to the people of Scotland to help them drink responsibly

- 2.1 Morrisons' vision is to be the "Food Specialist for Everyone". Our business model is different from other supermarket retailers. We focus on providing the freshest meat, fish and produce to our customers, sourcing directly from farms and preparing and processing ourselves. For example, cattle and lamb reared in Scotland are bought by Morrisons and processed at our abattoir in Turriff ready for our butchers to prepare for customers in store. We do not sell extensive ranges of non-food, e.g. clothing and electrical goods. We retail alcohol as a complement to our food specialism.
- 2.2 We are clear to our customers that alcohol is a product for adults. Our priority is to ensure that our customers have the information they need to drink responsibly and that sales are only made to those over the age of 18.

- 2.3 Our staff is trained to advise customers and verify the age of any customer who appears to be aged 25 or under seeking to purchase alcohol. Anyone who does not look over 25 will be asked to prove that they are above the legal age of 18 to purchase alcohol.
- 2.4 Stores work closely with local licensing authorities and the Police to ensure that all alcohol sales are not only within the law but consistent with responsible retailing. No Morrisons store is open 24 hours a day and we do not sell alcohol after 10.30pm.
- 2.5 We take our responsibilities seriously and ensure that our range includes a good choice of 'no-to-low' alcohol content products. We also do not stock products that could unduly appeal to people aged under 18. A full statement of Morrisons' alcohol policy is attached at Annex I.
3. **Response to specific points raised by Health and Sport Committee**
(1) The advantages and disadvantages of establishing a minimum alcohol sales price based on a unit of alcohol; (2.) The level at which such a proposed minimum price should be set and the justification for that level; (3.) The rationale behind the use of minimum pricing as an effective tool to address all types of problem drinking
- 3.1 In the Policy Memorandum the Scottish Government states that the Bill: "will help reduce alcohol consumption in Scotland and reduce the impact that alcohol misuse and overconsumption has on public health, public services, productivity, and the economy as a whole" (*Page 1, Paragraph 2*) . Morrisons agrees that it is a matter for Government to consider what is an acceptable level of consumption across society and to inform and educate citizens about the potential harm associated with drinking too much alcohol.
- 3.2 For the outcome of reduced alcohol consumption to be achieved, not just reduced alcohol sales in Scotland, the Government will need to implement the right actions to best achieve that result. Sadly, the actions proposed in the Bill, and minimum pricing in particular, do not follow from the evidence presented. Much the analysis in the Policy Memorandum is flawed. For example, the bold claim that: "the increase in consumption has been driven by off-sales with more than half of alcohol sold today consumed at home rather than in the pub" (*Page 2 Paragraph 6*); suggests that this is implicitly not good for society rather than acknowledging that Scottish people may choose to consume alcohol at home rather than in a pub and that the shift in place of consumption reflects how people choose to live their lives.
- 3.3 As a whole, the Bill is based too much on measures that apply to all the Scottish people, notably restricting access, availability and affordability of alcohol, rather than targeting individuals or groups whose pattern of alcohol consumption may place them at risk of harm. The majority of

people of Scotland who drink responsibly will be unfairly penalised to reduce harm among a few.

- 3.4 The Policy Memorandum states that the objectives of minimum pricing: “is to protect and improve public health by reducing alcohol consumption” *Page 5, Paragraph 10*). The evidence for a clear correlation between price and consumption is not as clear as the sources cited in the Policy Memorandum assert. The discussion of the relationship between price and alcohol in paragraph 15 could equally conclude that given higher incomes over the past 50 years that the relationship between alcohol and price is relatively inelastic. Indeed, the source of the graph on page 6 of the Memorandum, illustrating a relationship between price and alcohol consumption, is published by the Institute of Alcohol Studies (itself funded by the temperance movement). In their paper they conclude that:

“However, the influence of price on consumption is complex. For one thing, there can be cross price effects, i.e. if the price of one alcoholic beverage increases relative to the others, some consumers may switch to a cheaper alternative. There is also the question of incomes. The effects of increases in prices may be reduced or cancelled out by increases in disposable income.”

Institute of Alcohol Studies “*Alcohol: tax, Price and Public Health*” – Page 6

- 3.5 Therefore, even if minimum pricing has some success in encouraging consumers to switch to cheaper alternatives, its effect on consumption may be minimal or indeed nil. Many Scottish people will continue to want to enjoy alcoholic products responsibly. Rising incomes may well enable them to sustain or increase their levels of alcohol purchasing and consumption.
- 3.6 The only certainty that minimum pricing would bring is imposed higher costs to customers. This is neither proportionate nor fair. In particular, if alcohol can still be purchased online from outside Scotland, it would be discriminatory to the Scottish people as UK citizens. In addition, the setting of minimum prices is fundamentally at odds with the principles of competition law both in the UK and in the EU. Furthermore, no account has been given in the policy memorandum as to whether home brewing will increase.
- 3.7 If minimum pricing is introduced alongside a ban on promotions, retailers like Morrisons will only be able to compete by driving prices down towards the minimum. Potentially this could have the perverse effect of making many existing products more affordable. Moreover, patterns of consumption may change with unintended consequences that could lead to consumers increasing their risk for alcohol harm, e.g. spirits and higher strength beers and ciders may be more appealing as potentially ‘premium products’; or favoured because the effects of the

alcohol can be achieved at lower volumes of consumption. Some retailers may also seek to reward their customers for alcohol purchases through loyalty schemes that give cash back on other purchases – effectively circumventing the impact of minimum pricing or changes to promotions.

(4) Possible alternatives to the introduction of a minimum alcohol sales price as an effective means of addressing the public-health issues surrounding levels of alcohol consumption in Scotland.

3.8 As a retailer, there is much that we can do in partnership with the Government to communicate consistent messages to the consumer about the responsible consumption of alcohol. For example, the recent introduction of the “Know your drinks” point of sale information is an important complement to the “Know your limits” campaign. The Government should also consider working with industry to raise awareness that consuming alcohol with food is one of the best ways to drink alcohol responsibly. Morrisons would also be pleased to work with the Scottish Government to ensure effective, efficient and consistent communication of alcohol information on product labels.

3.9 In addition to the Fife Alcohol Partnership Group, Morrisons commends the *Community Alcohol Partnerships* that have been developed by the Retail of Alcohol Standards Group. The results from the project in St Neots, England, demonstrate that enforcement combined with education and community involvement can, in a targeted way, tackle under-age drinking effectively.

(5) The advantages and disadvantages of introducing a social-responsibility levy on pubs and clubs in Scotland.

3.10 The Policy Memorandum proposes that a social responsibility levy is merited on the:

“principle that the costs associated with the wider impacts of a commercial activity should be borne by those who benefit from it is well established and already applied, for example, in respect of environmental impacts.” (*Page 15, paragraph 56*). However, this logic is flawed. The producer of the “wider impact” associated with excessive drinking is the consumer of that alcohol, not manufacturer of the alcohol or the retailer.

3.11 Responsibility lies with the party that produces the “wider impact” not a third party. That is why drivers pay a fine if they choose to drive with undue care or attention or speed; or indeed pay a higher vehicle excise duty for running a more polluting vehicle. The payment is not made by the manufacturer or retailer of the vehicle. In the same way, if the Scottish Government wants to levy a fee to pay for “wider impacts” from alcohol it should consider fining individuals – the ‘polluters’ – not alcohol manufacturers or retailers.

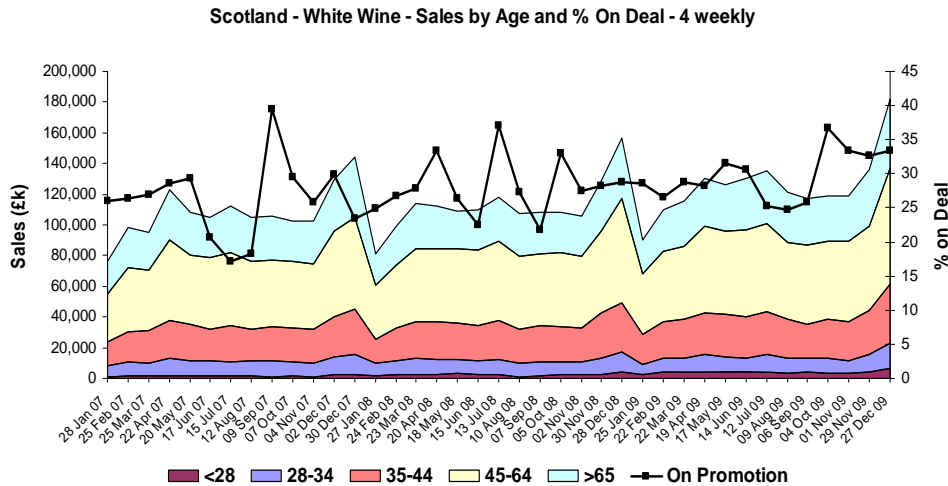
(6) The justification for empowering licensing boards to raise the legal alcohol-purchase age in their area to 21

- 3.12 The proposal to raise the minimum legal purchase age for off-sales to 21 is quite simply discriminatory. It would distort the market and not enable free and fair competition between the on-trade and off-trade.
- 3.13 Morrisons takes its responsibility to ensure that only adults of the legal age to purchase alcohol are able to do so. That is why since May 2008 we introduced the Task 25 scheme. Our staff will challenge any customer whom they think is aged 25 or younger to prove that they are over the legal age of 18 before purchasing alcohol.
- 3.14 One potential impact of increasing the minimum age to 21 for the off-trade would be a rise in the number of attempted proxy purchases. These are already difficult for retailers to prevent at all times. Raising the age will increase the cohort of population from whom proxy purchases could be made; therefore potentially increasing the prevalence of attempted proxy purchasing.
- 3.15 There may also be employment consequences with retailers favouring staff over the age of 21 who can therefore serve alcohol, potentially restricting career progression for 18-21 year olds.

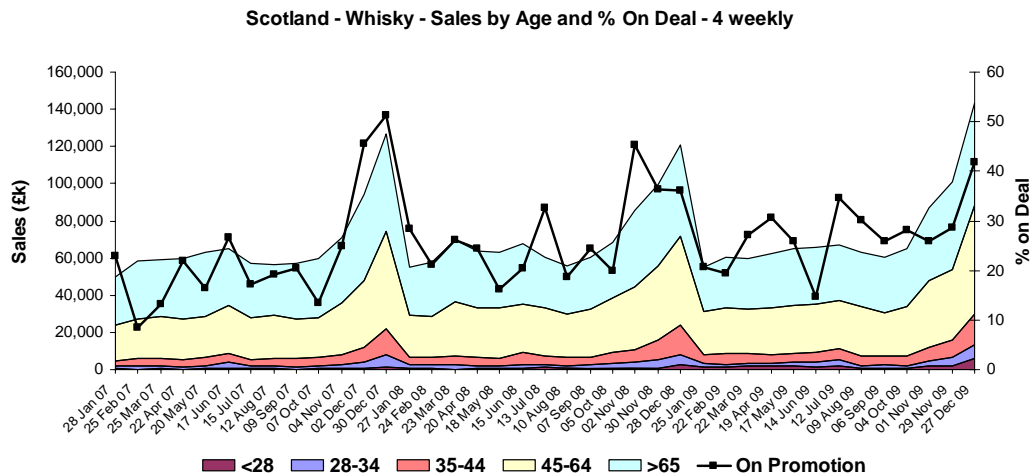
(7) The role of promotional offers and promotional material in encouraging people to purchase more alcohol than they intended.

- 3.16 The Policy Memorandum asserts that: "the objective of restrictions on drinks promotions is to protect and improve public health by reducing alcohol consumption." (*Page 9, Paragraph 26*). The Government also states that it is "true to some extent"... "that customers who buy in bulk to take advantage of the 'free' element of the promotion drink their purchase over a sensible period of time." (*Paragraph 32*). However, the Government intends to implement in full restrictions on promotions in the off-trade, even though some 40% of the Scottish people do not consume more than the daily recommended guidelines. Why should a customer who drinks alcohol within the recommended guidelines be forced to pay more for the product?
- 3.17 Morrisons does not have promotions that explicitly offer "free" alcohol. We do not have "buy-one-get-one-free" on alcohol. From time-to-time we do sell individual products at a discount, e.g. Scottish Whisky at Christmas, and we do offer some quantity discounts, e.g. when purchasing multiple bottles of wine or a second case of beer. Alcohol purchased this way is not intended for immediate consumption, e.g. we do not sell chilled cases of beer.

3.18 Morrisons would like to make clear to the Committee that analysis of Scottish retail market data from TNS shows that there is no clear pattern of correlation between the percentage of alcohol on promotion and the volume sold. Other factors, such as seasonality, appear to be just as important. For example, analysis of sales of white wine show that when the most number of lines are on promotion does not correlate with peaks in sales, e.g. September 2007 and October 2009.



3.19 A product like Scottish whisky appears to have a closer correlation with the percentage of lines on promotion with a peak each year at Christmas. However, Christmas is also when most consumers choose to buy whisky and when manufacturers want to market their products competitively to capture market share. Therefore, it does not automatically follow that promotions drive sales. The likelihood is that Scottish consumers will want to purchase Scottish whisky at Christmas whether it is on promotion or not.



3.20 To restrict promotions would be a blunt instrument that may not have the desired outcome that the Scottish Government would like to have of

reducing consumption. Banning all promotions would penalise the majority of Scots who drink responsibly at a time when value in household spending matters the most. A blanket ban would not only be discriminatory and disproportionate, it is unlikely to have the intended impact or reducing harm or indeed incidences of alcohol harm.

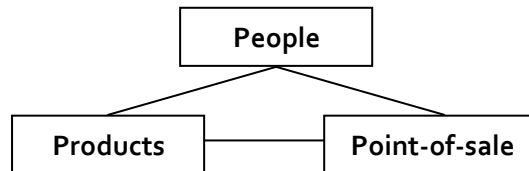
Richard Taylor
Director of Corporate Affairs
Wm. Morrison Supermarkets PLC
19 January 2010

Annex I – Morrisons Alcohol Policy

Morrisons is a responsible retailer enabling our customers to make responsible choices when purchasing alcohol. The three cornerstones of our policy are: People, Products and Point-of-Sale.

Morrisons

Responsible Retailer enabling Responsible Choice



Our alcohol policy is focused on putting people first. Alcohol is a product for adults. It can be enjoyed socially. It can also be a cause of harm. We want our customers to be able to choose to enjoy quality alcohol products responsibly at sensible prices. Our staff are trained to advise customers and verify the age of any customer who appears to be aged 25 or under seeking to purchase alcohol. Anyone who does not look over 25 will be asked to prove that they are above the legal age of 18 to purchase alcohol.

Products are central to our retail business. We take our responsibilities seriously and ensure that our range includes a good choice of 'no-to-low' alcohol content products. We also do not stock products that could unduly appeal to people aged under 18.

We pride our self on high quality service. At the point-of-sale our alcohol policy ensures stringent service standards to exclude the sale of products to those under 18 as well as information and advice to help our customers exercise choice.

People:

Morrisons cares for people - our customers, our staff and our communities. Our priority is to ensure that our customers have the information they need to drink responsibly and that sales are only made to those over the age of 18.

Customers:

- Adult customers are able to ask our staff for advice on the range and quality of products.
- Point of sale information is provided to educate customers on the alcohol content of products and how to drink responsibly. The *Drink Aware* scheme is endorsed in all our stores.

Staff:

- Colleagues are trained to understand the law and offer advice to customers.
- Morrisons operates a **Task 25 Scheme**. Since May 2008,

colleagues will challenge any customer whom they think is aged 25 or younger to prove that they are over the legal age of 18 before purchasing alcohol.

Task 25

Think – is the customer legally old enough to buy alcohol?

Ask – the customer for ID if they look under 25 years of age

Stop and check - the customer's ID

Know the law – the retailer and the customer commit an offence if alcohol is sold to under 18s

- Training for colleagues includes building confidence to challenge or refuse to the sale of alcohol to customers, including to those attempting to purchase alcohol on behalf of someone under 18.

Communities:

- Stores work closely with local licensing authorities and the Police to ensure that all alcohol sales are not only within the law but consistent with responsible retailing.
- No Morrisons store is open 24 hours a day and we do not sell alcohol after 10.30pm.

Products:

Morrisons is proud to offer customers quality, choice and value . For alcohol our product range is tailored to help people drink responsibly.

We are:

- extending our range to increase the choice of zero and low alcohol content products. We are introducing a Morrisons premium brand of 2% alcohol by volume own label beer and cider range in the autumn of 2008.
- reviewing with our suppliers the potential to reduce the alcohol by volume of premium manufactured brands
- increasing our range of wine with 10% alcohol by volume or less
- always offering a promotion on non and low alcohol products

We are not:

- selling products that we consider are particularly designed to encourage excessive alcohol consumption, e.g. we removed pre-packaged shots in September 2006

- stocking products with brand names that imply drinking alcohol will enhance a social occasion or brand names that are not consistent with a responsible approach to drinking
- removing from stocking cider products with excessively high alcohol by volume

Point of sale:

The point of sale is where our products, customers and staff meet. To encourage responsible drinking, Morrisons is ensuring that clear, straight-forward advice is available and that any promotions are consistent with quality, choice and value.

We are:

- Ensuring that units of alcohol are consistently and clearly labelled on all our products.
- Introducing new signage to identify low and lower alcohol content products and new Shelf Edge Labels to help customers to make informed choice.
- Extending the prominence of the *Drink Aware* campaign to help reduce alcohol misuse and minimise alcohol-related harm

We are not:

- Seeking to increase sales with offers advertising free alcohol. We do not do market offers explicitly with free alcohol, e.g. 'Buy One Get One Free'.

Morrisons is proud to support the Drink Aware Campaign:
www.drinkaware.co.uk

Morrisons also abides by the Portman Group's Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks:
www.portman-group.org.uk

Winner of the 2007 Award for best development programme in licence retail (consumption off premises)

Morrisons – Responsible Retailer enabling Responsible Choice

Sainsbury's plc

Alcohol etc (Scotland) Bill

Introduction

- 39 of our 825 stores are in Scotland (28 supermarkets, 11 convenience stores).
- We serve over 580,000 Scottish customers a week and employ over 6,000 colleagues in stores and in depots.

Executive Summary

- We are committed to driving positive behaviour change, both within our company and with our customers. Our experience shows that change in consumer behaviour is most successful when it is incentivised and focused on education, rather than when change is imposed by regulation or restriction.
- We believe that government and retailer action needs to be targeted, with action designed at specific 'at risk' groups.
- There seems to be an unrealistic expectation that perceived 'easy wins' around a ban on promotions and the introduction of minimum pricing will produce substantial public health returns. Even the Sheffield Study found a total ban on off-trade discounting would reduce consumption by just 2.8%.
- What is known is that a higher pricing regime will result in the unintended consequences of those on fixed incomes being hardest hit. It will be seen as an unfair and anti-consumer policy by customers, introduced at a time of financial hardship for many families.
- We do not believe that increased purchasing of alcohol directly impacts on increased excessive consumption. The issue is much more complex and involves the need for more of an understanding and emphasis on the demand side of why people misuse alcohol in the first place.
- We strongly believe that there needs to be a greater place for educational policies designed to tackle the culture of excessive drinking.
- We strongly support schools, local charities and voluntary groups in encouraging displacement activity for teenagers. We are active members of The Drinkaware Trust, the Community Alcohol Partnership. We take alcohol unit messaging and cracking down on underage sales very seriously.

1. Minimum pricing based on a unit of alcohol:

Whole population approach:

- 1.1 We do not believe that minimum pricing will do what it is intended to - reduce problem drinking. A whole population approach is unfair. It will not discourage problem drinkers but punish the responsible majority. It will disproportionately hit those on fixed incomes and we would be surprised if Parliamentarians and the Scottish Government meant this group to be targeted by these proposals.
- 1.2 A better approach is for more local educational and targeted action at problem drinkers.

Result from minimum pricing will be shift in product choice, rather than reduction in consumption:

- 1.3 It may simply lead to a shift in product choice rather than reduction in overall consumption. A minimum price of 50p per unit of alcohol would mean that a bottle of own-brand spirits at 40% abv would cost £14. At such a level the own-brand product has lost its competitive advantage. For information our own-brand Scotch is produced at sites near Glasgow and East Kilbride. Our *Taste The Difference* Malt Whisky is bottled near Edinburgh. If minimum pricing is introduced it would mean these own-brand products would now be competing in the same price range as branded products such as Smirnoff Vodka or Bells Whisky.
- 1.4 This then questions whether consumers will buy cheaper brand or own-brand products when for the same price you can buy premium branded product - meaning a significant negative impact on those own-brand sales and thus a negative impact throughout the supply chain.

UK market:

- 1.5 *Cross-border trade:* There is the very real possibility of increasing cross-border 'white van'-type sales. The regular P&O ferry from Troon to Larne is a well-known and popular route for Scottish travellers to Northern Ireland and could be used for future alcohol trips. Customers from The Borders and Dumfries and Galloway could easily drive to towns in England, particularly to Berwick and Carlisle respectively.
- 1.6 In Northern Ireland, we have seen this cross-border shopping in practice. Our Newry store regularly sees shoppers 'commute' from Dublin to Newry to do their weekly or monthly shop. As a result our Newry store has the highest alcohol sales in the whole of our UK estate. Last year the *Irish News* reported that Sainsbury's and Asda had 2.5% of the Irish grocery market, despite not having a single store in the Irish Republic.¹ While this cannot solely be put down to alcohol sales, the alcohol pricing differentiation is a strong factor. While acknowledging the high cost of petrol, customers have told us that alcohol was one of the key purchases that they were prepared to travel substantial distances for.
- 1.7 *Internet sales:* Even taking into account shipping costs, there is the real possibility of bulk internet overseas sales being more attractive to Scottish consumers if a minimum retail price was introduced.

Lack of evidence:

- 1.8 We do not believe that increased purchasing of alcohol directly impacts on increased excessive consumption. We believe that the issue is much more complex, and involves the need for much more of an understanding and emphasis on the demand side of why people misuse alcohol in the first place. Our research shows that one third of customers would buy a little more than usual, with nearly half saying they would buy 'about the same'².
- 1.9 *Sheffield Study:* While the Sheffield University study is a respectable academic study it didn't however look at the potential impact on the

¹ *Irish News*, 29 January 2009. 'All roads leads to Newry as consumers shop around'

² Ipsos Mori survey commissioned by Sainsbury's, 2007

market of introducing minimum pricing. The limited evidence presented so far in favour of an off-trade ban on promotions shows only a very small public health gain³.

- 1.10 There are other studies, including the Centre for Economic and Business Research's recent study (CEBR), which questioned the findings of the Sheffield University study. It found that: "pricing legislation is unlikely to have a significant impact on overall consumption levels of those drinkers that it is intended to target, unless price increases are set at very high levels...."⁴

2. Social Responsibility Fee:

Health and community engagement:

- 2.1 We think a Social Responsibility Fee is unnecessary, unjust and could potentially undermine our actions to support local charity and community initiatives.
- 2.2 Through our commitment to food and health we have awarded store grants to a number of local charities and community groups that meet the 'food, family, health and kids' criteria. For example, our Inverkip Local convenience store has sponsored a local children's football team. Our Active Kids programme has given nearly £1.2million-worth of sports equipment to Scottish schools since 2005. In Belfast we have offered to work with the Police to offer 'diversionary tactics' to help keep children active and off the streets during the evenings, and particularly during the summer holidays.
- 2.3 Through the activity detailed above we feel that we are better placed to positively engage local community group and local authorities on their needs, rather than imposing a Social Responsibility Fee.

Unfair extra taxation:

- 2.4 It imposes a further tax on us, ignoring the fact that we already make substantial contributions to local taxation through business rates and increased fees for license applications and variations.

Blunt instrument:

- 2.5 A Social Responsibility Fee does not make a distinction between responsible and irresponsible licenses, by grouping all those businesses that hold an alcohol licence together, irrespective of their customer-base and behaviours. The Licensing (Scotland) Act 2005 and other already existing enforcement powers should be the key mechanisms to deal with badly run premises.

Impractical:

- 2.6 It is questionable how practical is it to trace the alcohol purchases of someone causing trouble late at night to their first purchase. There are issues around whether the alcohol belonged to parents or friends or was

³ Sheffield University Review into alcohol pricing and promotions policy. <http://www.sheffield.ac.uk/mediacentre/2008/1128.html>. 'Sheffield report analyses effects of alcohol pricing and promotion policies': 3 December 2008. "A total ban on off-trade discounting is estimated to reduce consumption by 2.8%"

⁴ Centre for Economic and Business Research report "Minimum Alcohol Pricing: A targeted measure?" (June 2009), page 4

stolen from a store and whether those purchases were all made in that local area. Then attaching that disorder to a specific off-trade premise is very questionable.

Costs of administering the Fee:

2.7 Any Social Responsibility Fee that is paid into local authorities is unlikely to be used in the most efficient way. The value of the Fee will be lost in administration and bureaucracy costs. We can offer a much more efficient and targeted approach to local groups to promote public health objectives in the area.

3. Raising purchase age to 21:

No evidence that this measure will reduce alcohol-related harm/incidents:

- 3.1 There is negligible evidence that a two-tier age restriction is likely to further reduce young people's access to alcohol. The proposal is seemingly based on a small evidence-base – the pilot study in the small town of Armadale. The Armadale study did not include supermarket stores, it was concentrated over a specific and short period of time, it did not fully acknowledge the large police presence and on the street enforcement and confiscation policies, as well as the significant coverage the study created within the local community.
- 3.2 There is also a danger that any move to increase the purchase age to 21 for certain off-trade premises in certain areas will merely move the problem around.
- 3.3 The implication that 18-20 year old behaviour is moderated more in the on-trade is totally without evidence.

Intelligence-led local enforcement:

- 3.4 We would suggest that the Government and the Police's priority should be in enforcing existing age purchase laws, with targeted and intelligence-led action taken against retailers who knowingly sell to underage persons and against proxy purchases.
- 3.5 The Community Alcohol Partnership model offers a ready-made opportunity to identify and deal with problem hotspots in a targeted and joined-up way.

4. Promotional Offers and Materials:

Lack of evidence for promotions ban:

- 4.1 In the highly competitive branded and own-branded alcohol market, promotions are run to encourage customers to switch between brands, and to encourage customers to try different products, rather than increase consumption.
- 4.2 As a food retailer, while our customers may buy alcohol on promotion, it is overwhelmingly as part of their weekly shop

Promoting Scottish niche products:

- 4.3 Pricing promotions gives small start-up brands, as well as the multinational well-known brands, a chance to compete and differentiate from each other. For example the Inveralmond Brewery, Perth and the

Williams Bros Brewery in Alloa are both small breweries who supply us with a small number of specialist regional beers. Taking away their ability to price promote on shelf takes away one aspect of their ability to compete.

Impracticalities of ban on promotional material:

- 4.4 Restricting all promotional material to just the designated alcohol area in store will have significant unintended consequences and result in bizarre and impractical rulings. Examples below:
- 4.5 *'Meal deals' and 'tip cards'*: Encourage the consumption of food and alcohol together. However, we are concerned that limiting their promotion to just the alcohol area is impractical and does not reflect how the Deal, and often the 'tip' cards, are food *and* alcohol based, or how customers shop. We would need to advertise outside the alcohol area and due to conditions in the Licensing Act we can't put non-alcohol products in the alcohol area anyway.
- 4.6 *Newspapers/in store magazines*: for ease and convenience our customers expect us to sell magazines and newspapers at the front of our stores. The proposed restriction will hit all publications including national and local newspapers, magazines and in store publications if they have alcohol advertisements or food and drink recipes – they would all have to be put in the alcohol area, which is often at the back of the store and therefore lose those customers who haven't come in to buy alcohol. It also seems unfair if one of our competitors is advertising in publications which we don't advertise in, yet we'd still have to put them in the alcohol area.
- 4.7 *External 'vicinity'*: The Scottish Government have not defined what 'vicinity' means and could lead to bizarre rulings or bans on advertising of alcoholic products which we have no control over – alcohol brands advertising on bill boards for example.

5. Other/Alternatives:

- 5.1 There needs to be much more emphasis on understanding the supply-side of the debate and how educational projects can have a long-term impact.
- 5.2 *Drinkaware*: We were one of the first supermarkets to join The Drinkaware Trust, which brings together producer companies, retailers, health professionals, academics and NGOs. Its aim is to positively change public behaviour and reduce alcohol-related harm. One of its key priorities is around under-18's education. Our Head of Legal Services is a Trustee. We have contributed over £100,000 to Drinkaware over the last two years and are part of the industry £5m-funding pledge to Drinkaware.
- 5.3 *Community Alcohol Partnership*: Has been shown to work. Through the Retail of Alcohol Standards Group (RASG), of which we are a key member (our Head of Legal Services chairs the group), CAP brings together retailers, the police, local authorities, secondary schools, youth clubs and the local press to tackle under-age drinking through education, enforcement and public perception. It has been independently reviewed by the University of Kent. A pilot scheme has been launched in Fife.

- 5.4 *Alcohol units*: Increasing customer understanding of how many units are in alcohol drinks is vital and a valuable way of improving public health. We already label our own brand products, but more can be done by others. We were pleased that Alcohol Concern in their report 'Message on a bottle' ranked our own brand products 'the best out of all the supermarkets', with scores of 88% and 100% compliance.⁵
- 5.5 *Targeting 'at risk' drinkers*: There needs to be a much clearer strategy by public health authorities and charities of targeting problem drinkers and 'at risk' groups, rather than them politically campaigning for a disproportionate legislative, top-down approach. This will mean a better use of public funds and resource and ensure an overall better overall public health outcome.

⁵ Alcohol Concern. 'Message on a bottle'.
http://www.alcoholconcern.org.uk/files/20090904_132523_Message%20On%20a%20Bottle.pdf. Sept 2009.