

# DIAGEO

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HOME OFFICE CONSULTATION:  
'DELIVERING THE GOVERNMENT'S  
POLICIES TO CUT ALCOHOL FUELLED  
CRIME AND ANTI-SOCIAL BEHAVIOUR'

A RESPONSE FROM DIAGEO

## About Diageo

Diageo is the world's leading premium drinks business and a top-20 FTSE 100 company. We employ more than 25,000 people worldwide, in more than 80 countries, including over 5,000 people in the UK, in more than 50 sites.

Our brands include: Bell's, Johnnie Walker and J&B whiskies as well as a range of malt whiskies from our 29 Scottish distilleries alongside Smirnoff vodka, Captain Morgan rum, Baileys liqueur, José Cuervo tequila, Tanqueray and Gordon's gin, Guinness beer and Blossom Hill wines.

## Executive Summary

Alcohol beverages bring pleasure to millions of adults, all over the world, as they have done for thousands of years. We are proud of the unique part that alcohol plays in the social lives and celebrations of many cultures. However, Diageo is aware of the sometimes negative role alcohol can play in the lives of individuals and in society. We agree with the Government that it is vital that we tackle irresponsible drinking and that alcohol-related harm and anti-social behaviour must be reduced.

Diageo actively promotes responsible drinking and works with Government, police, communities and other stakeholders on a range of evidence-based targeted interventions aimed at reducing alcohol misuse. We are a founder member of The Portman Group and a longstanding funder of The Drinkaware Trust, and play an active role in, and fully support, the Government's Public Health Responsibility Deal.

However, whilst we agree with the Government that a continued reduction in alcohol misuse is needed in Great Britain, we do not agree with some of the principal policy interventions it proposes in its Alcohol Strategy to achieve this, particularly Minimum Unit Pricing and the Multi-Buy Promotions Ban. In its Alcohol Strategy the Government states that such measures are 'targeted explicitly at reducing harmful drinking' without 'stopping sensible, responsible drinking'. Diageo would strongly question both assertions: they are population-wide measures which would affect the majority of responsible drinkers without tackling misuse. A report from the Institute for Fiscal Studies supports this position, stating that Minimum Unit Pricing will hit responsible drinkers and, in particular, those on lower incomes at a time when household budgets are already under extreme pressure.<sup>i</sup>

There is no strong evidence as to the effectiveness of either Minimum Unit Pricing or Multi-Buy Promotions Bans as policies which would reduce alcohol-related harm.<sup>ii</sup> The Government itself acknowledges this lack of evidence in its own consultation's impact assessment, stating that 'estimating the effect of this policy is very difficult and subject to considerable uncertainty'.<sup>iii</sup> Furthermore, a Minimum Unit Price and a Multi-Buy Promotions Ban would: **jeopardise the competitiveness of the alcohol industry based in Great Britain; have the unintended consequence of increasing the prevalence of counterfeit and illicit alcohol, and potentially be incompatible with EU Competition Law.**

Additionally, the Government carried out little to no consultation with industry before announcing its intention to introduce a Minimum Unit Price and we would strongly dispute the evidence on which it bases its support for such a market-distorting intervention. The Government's consultation document, which requests views on the efficacy of its proposed Minimum Price of 45p per unit, does not engage with the fundamental flaw with the policy: price-based interventions are not an effective, proportionate or responsible way to tackle alcohol misuse, regardless of the level at which they are set.

Rather than introduce a Minimum Unit Price or a Multi-Buy Promotions Ban, we believe the Government should focus on enforcing existing laws designed to prevent alcohol misuse and alcohol related anti-social behaviour and continue to work with industry and other partners to help consumers make informed choices about whether, when and how they drink.

Diageo fully supports a number of measures designed to effectively tackle different types of irresponsible drinking. These include evidence based 'life skills' programmes in schools, initiatives aimed at reducing alcohol related violence in the night time economy (such as Best Bar None, Pubwatch and Purple Flag), the extension of SBIs (Screening and Brief Interventions) in Primary Care settings, robust enforcement to prevent irresponsible promotions, and tougher penalties for those caught buying alcohol for children (proxy purchasing).

Government should continue to deliver such targeted and impactful interventions for those individuals and groups who drink irresponsibly. These measures are a proven and effective response and are already delivering results as demonstrated by the decreasing levels of total alcohol consumption in Great Britain as well as the decreases in measures of binge drinking, underage drinking and most importantly, alcohol related deaths.<sup>iv</sup> It is vital that the Government continues to be committed to supporting such measures. The Home Office predicts that Minimum Unit Pricing will cost the Exchequer, and the Public Finances, £2 billion over the next 10 years in lost tax revenue through diminished alcohol sales. If this level of financial commitment was applied to these targeted measures it would be much more effective in reducing alcohol misuse.

## Tackling Alcohol Misuse: the Roles of Industry and Government

Diageo recognises that there are issues of excessive and irresponsible drinking in Britain. We believe the solution lies in: (i) sustained education and awareness raising; (ii) strong enforcement of existing laws applying to drinkers and drink retailers; and (iii) targeted interventions aimed at those who misuse alcohol or are at risk of misusing alcohol. In addition, every alcohol drinker has to take responsibility for their own actions.

Industry has an important role to play. The Responsibility Deal taps into the potential for businesses and other organisations to work together to improve public health. Diageo has signed up to all 8 collective pledges on alcohol (ranging from health information on labels to removing one billion units from the market to working towards the prevention of under-age sales). We have also made an individual pledge to fund the training of 10,000 midwives to help prevent fetal alcohol syndrome, over 3 years.

Our responses to the Alcohol Strategy are based on evidence and research and our experience of selling and marketing alcohol products responsibly in over 180 markets worldwide.

### Education and Awareness

Diageo fully supports the Government's proposals in its Alcohol Strategy to educate young people and families about responsible drinking. We have been supporting initiatives for a number of years designed to do just this, for instance we sponsor 'Smashed', an educational play/workshop performed in over 1,100 schools by Collingwood Learning, seen by almost 200,000 pupils. We also communicated responsible drinking guidelines and messages to 100,000s of Londoners over the 2011 and 2012 festive periods through our sponsorship of Transport for London's 'Free travel on New Year's Eve' initiative. We are founding members of The Drinkaware Trust and have fully supported their 'Why Let Good Times Go Bad' campaign as well as supporting their current 'lifeskills' programme for school pupils entitled In:tuition.

### Impact and Enforcement of Existing Measures

As the Government states in its Strategy, it has 'already taken action to tackle the availability of heavily discounted alcohol' making significant changes to the alcohol excise duty system such as introducing a new higher rate of duty for high strength beer over 7.5% ABV and a new lower rate of duty for beer at

2.8% ABV.<sup>v</sup> Other initiatives are being delivered through the Responsibility Deal. Their impact should be fully assessed before new policies are introduced.

The Government should ensure that existing laws designed to tackle alcohol misuse and alcohol related anti-social behaviour are fully enforced before introducing new ones. The Alcohol Strategy notes that it is an offence to knowingly serve alcohol to someone who is intoxicated and that the proper enforcement of this law would have a significant impact on irresponsible drinking. Only 15 individuals were found guilty of serving intoxicated people between 2005 and 2009.<sup>vi</sup>

### Targeted Interventions

Measures to tackle the irresponsible consumption of alcohol should address specific at-risk populations. We fully support such measures in the Government's Alcohol Strategy, for instance its commitment to help the 120,000 most troubled families in the country.

The strategy emphasises the importance of helping town centres to deal with problems caused by alcohol misuse, which we also fully support. Diageo works with schemes such as Best Bar None, Pubwatch and Purple Flag and we would request that any new programmes complement these existing initiatives.

### Alcohol Consumption Levels in Great Britain

The Government's own data demonstrates that this approach is working to reduce alcohol misuse. There have been falls in the proportion of both men and women who drink heavily and binge drinking is down across all age groups except those over 65.<sup>vii</sup> Binge drinking among men and women between the ages of 16-24 has dropped the most – down 8% and 10% respectively since 2005. Additionally, in recent years, there has been a steady and steep decline in the proportion of pupils (aged 11-15) who drink alcohol.

Government data also demonstrates that awareness raising programmes are working, with increases in the number of people who have heard of the Government's recommended drinking guidelines.<sup>viii</sup>

## The Government's Alcohol Strategy: Consultation Questions

### A Minimum Unit Price for Alcohol

Diageo strongly opposes a Minimum Unit Price for Alcohol. A Minimum Unit Price, either set at 45p as the Government has proposed, or at another level, is neither targeted nor proportionate. Rather, it is a population-wide measure which does not tackle alcohol misuse among the minority and would disproportionately penalise responsible drinkers who make up the overwhelming majority (78.5% of the adult population).<sup>ix</sup> It is a significant pricing intervention by Government into a free-market, penalising the vast majority who consume alcohol responsibly and is ineffective in tackling alcohol-related harm, the Government's stated objective for the policy. As such, it cannot be considered a proportionate measure by the Government.

There are a number of other factors and evidence which should be considered by the Government in terms of its planning for the introduction of a Minimum Unit Price for Alcohol:

**The Relationship Between Price, Consumption and Harm**  
The relationship between price and consumption is complex, as are the causes of alcohol misuse. For instance, the price of alcohol is largely the same in Scotland as it is in England, however alcohol health harms in Scotland are far higher than in England.<sup>x</sup>

There is little evidence to support a direct correlation between the level of alcohol price in a country and the level of drinking. Studies have shown that consumers respond differently to price changes in different countries<sup>xi</sup> and recent empirical evidence from Denmark, Finland, and Sweden indicates that despite predictions to the contrary, the lowering of the price of alcohol did not lead to increased consumption.<sup>xii</sup>

**The Evidence-Base for Minimum Unit Pricing in England & Wales**  
There is no strong evidence supporting the effectiveness of Minimum Pricing as a policy to reduce alcohol-related harm and indeed some evidence to suggest the opposite.<sup>xiii</sup> The evidence on which the Government bases its support for Minimum Pricing, the University of Sheffield's report, is flawed. The report, based on a theoretical model designed to predict consumer behaviour, claims that a 1% fall in total alcohol consumption will result in 3,403 fewer alcohol related hospital admissions per annum. According to its calculations, the fall in consumption of over 6% between 2004 and 2008 should have resulted in around 20,000 fewer alcohol-related hospital admissions in 2008 alone. Official figures for alcohol related admissions actually detail a rise of over 300,000 from 2004 to 2008, apparently disproving the theory underlying the Sheffield report. The fact that neither alcohol-attributable deaths, hospital admissions nor crime has moved in the manner expected in response to the overall reduction in alcohol

consumption casts serious doubt over the capability of the Sheffield model to properly predict the relationship between alcohol-related harms and alcohol consumption.

It is also rightly pointed out in the evidence in the Sheffield report that harmful consumers among young people are more price inelastic than moderate consumers. However, when that is inputted into the report's model it is reversed, so a greater outcome is predicted for harmful consumers than is predicted for moderate ones.

The Government itself acknowledges that there is a limited amount of evidence that MUP would have a positive impact on either rates of harmful consumption or anti-social behaviour, stating in its own consultation documents that 'estimating the effect of this policy is very difficult and subject to considerable uncertainty'.<sup>xiv</sup> The House of Commons' Health Select Committee made this argument to the Government in its inquiry into the Alcohol Strategy in the first half of 2012, where it 'emphasised the need for the decision on minimum price to be evidence-based... the debate so far is based almost entirely on the work of the Sheffield Alcohol Research Group'. It added that 'if there is to be a minimum unit price, a more substantial evidence base needs to be developed in the future to help in the assessment of whether the minimum unit price is achieving the anticipated benefits'.<sup>xv</sup> This lack of evidence for Minimum Unit Pricing has been highlighted even more forcefully by the Adam Smith Institute, which argues that the Sheffield Model **'is based on unreasonable assumptions which render its figures meaningless' and that 'predictions based on the Sheffield Model are entirely speculative'**.<sup>xvi</sup>

Despite the Parliamentary Health Committee making its recommendation in July 2012, the Government has made no further evidence available supporting the case for Minimum Unit Pricing.

The Government has referenced a Canadian study<sup>xvii</sup> in its consultation as evidence that Minimum Unit Pricing has a positive effect on alcohol misuse. However, making comparisons between the Government's proposed Minimum Unit Price and the Canadian system are difficult due to their very different nature: the Canadian system is based on differing levels of price across and between the different categories of alcohol and is also implemented in a very different market where all off-trade sales of alcohol are controlled by the state. Importantly, the Canadian study did not look at impact on harmful consumption or the distributional effect, only total consumption levels and thus any comparisons with Minimum Unit Pricing and its potential effect on alcohol related harm cannot be accurately made.

Minimum Unit Pricing is a Regressive Policy which Disproportionately Penalises the Majority of the Population Who Drink Responsibly, Particularly Those on Lower Incomes

A Minimum Price set at around 45p per unit would affect the majority of responsible drinkers with 52% of all alcohol sold in the off-trade in England and Wales having its price increased, and disproportionately impact those on a modest or low income.<sup>xviii</sup> According to the Government's own data, those living in the lowest income households are already far less likely to drink beyond the recommended daily guidelines than those in the richest households, 22% (households on less than £200 pw) compared to 45% (households on £1,000+ pw).<sup>xix</sup> The Government also acknowledges in its own consultation documents that a Minimum Unit Price 'impacts lower income consumers the most'.<sup>xx</sup>

A recent report from the CEBR<sup>xxi</sup> supports this, outlining how a price of 45p has a negligible impact on hazardous and harmful drinking levels among the richest 20% of households in England & Wales.

Potentially incompatible with EU Competition Law  
Diageo agrees with the Wine and Spirit Trade Association and Scotch Whisky Association that it is inconsistent with the operation of a free market for the state to intervene on price. This view is supported by United Kingdom and European Competition laws. Since the Scottish Government notified the European Commission of its intention to introduce a Minimum Unit Price of 50p per unit, several Member States including: Italy, Spain, Portugal, France and Bulgaria and the European Commission itself have submitted objections to the policy. The Commission, in a statement, declared that they 'have a problem with the compatibility of the minimum pricing plans under Community law' and that it 'causes problems with the compatibility with the EU Treaty'. Catherine Day, Secretary General of the European Commission has since said 'The UK authorities are invited to abstain from adopting the draft legislation at issue'.<sup>xxii</sup> The former Public Health Minister, Anne Milton MP, also suggested that the UK Government has legal advice which indicates that the policy is probably illegal.<sup>xxiii</sup> In addition, Andrew Lansley MP, while Secretary of State for Health, cast doubts over the efficacy of such a measure, stating 'Are we really saying that because a bottle of vodka isn't £8 but £12.50 they are not going to preload with a bottle of vodka for a night out when they are in clubs where they pay £5 for a drink? That is absurd. They are still going to do this binge drinking because that is a behaviour issue'.<sup>xxiv</sup>

The current Cabinet Office Minister, Chloe Smith MP, while in her previous role as Economic Secretary to the Treasury made this point more explicitly in a debate on Alcohol Taxation. 'The Scottish Government have recently introduced a Bill that seeks

to bring in a 45p per unit minimum price. She (Sarah Wollaston MP) asked why this Government believes that that would be incompatible with EU law, when the Scottish Government does not. If I may quote the specific point: we believe that it could be incompatible with article 34 of the treaty of the functioning of the European Union. I should be delighted to go into more detail on that if she required. That is the position.'<sup>xxv</sup>

We remain disappointed that the Government will not publish the legal advice it has so far received on Minimum Pricing. We would strongly encourage the Government to make this available before it progresses any further with a Minimum Unit Price, whether at 45p per unit or at any other rate. We would also request, as part of its wider approach to better regulation, that the Government does not progress with the implementation of a Minimum Unit Price in England & Wales until all legal challenges to the policy in Scotland have been concluded. The Scottish Government has made such an assurance in terms of its own implementation planning process for this policy.

#### Impact on Competitiveness and Other Unintended Consequences

John Fingleton, former CEO of the UK's Office of Fair Trading, has stated that a Minimum Price 'has a number of undesirable effects... It would reduce the incentives of firms to compete, innovate and cut costs. So the dynamic benefits of competition are lost... such a short term fix can have serious and long-lasting negative effects.' The OFT outlined its concerns in more detail in its response to the Health Select Committee's inquiry into the Alcohol Strategy.<sup>xxvi</sup> It encouraged Government to support industry in creating voluntary agreements to tackle irresponsible drinking rather than introduce a Minimum Unit Price, an approach which we fully endorse.

Diageo has commissioned an independent study into the economic effects of Scotland's Minimum Alcohol Pricing legislation by the economic consulting firm Compecon Competition Economics. This study concluded that such legislation would have 'an adverse effect on the free circulation of goods as it discriminates against imported alcoholic drinks in multiple ways'; that the 'economic evidence does not support the claim that these measures are justified on public interest/health grounds'; and, from an economic perspective, 'MUP legislation would produce similar effects as an illegal cartel between retailers to fix a minimum price'.<sup>xxvii</sup>

Another unintended consequence of Minimum Unit Pricing, and a Multi-Buy Promotions Ban, is the risk that if some people are priced out of the legitimate market, they will simply turn to illicit sources from which to obtain their drinks. There is very strong evidence to suggest that high prices increase illicit production of alcohol.

## Other Considerations

If the Government does introduce Minimum Unit Pricing, we would strongly request that it does so with a 'sunset clause' so that the impacts of the policy can be properly assessed. We are opposed to the proposal that the Government could raise the level at which a Minimum Unit Price is set at regular intervals. We would request that any review of the policy's impact is carried out far before the Government's planned timeline of five years and that any potential increase to the level of price is subject to a full consultation process and Parliamentary scrutiny.

If the Government does want to establish a floor price for alcohol, this could be achieved through a policy it had previously intended to introduce: a ban on the sale of alcohol below the level of duty plus VAT. While Diageo does not support such a ban, as we do not believe price-based interventions tackle irresponsible drinking, such a proposal has less of a distorting impact on the market than Minimum Unit Pricing. It also, if this is the Government's objective, has the ability to prevent the deep discounting of alcohol without impacting on the majority of responsible drinkers who still seek value for money on their consumer purchases.

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## A Ban on Multi-Buy Promotions in the Off-Trade

As a responsible company, Diageo believes that at a minimum industry and Government should work together to prevent all irresponsible promotions, including types of discounting, whether in shops, supermarkets, clubs, bars or pubs. Going further, we believe that industry can play an important role in changing consumer attitudes to alcohol by working in partnership with Government and civil society, and that initiatives with the Portman Group, Public Health Responsibility Deal and other organizations are already proving successful in achieving this.

We agree with the Government that there is the potential for some price promotions to be irresponsible, leading to harmful levels of consumption. We fully support measures which would effectively prevent such irresponsible promotions. All Diageo's promotional and marketing activity is strictly governed by the Diageo Marketing Code, which goes beyond existing industry codes. Through the Portman Group's Code of Practice, Diageo and other leading members of industry (accounting for more than half the UK alcohol market), have also committed to ensuring that the naming, packaging, marketing and promotional activity of our products is independently monitored and regulated to ensure that it meets what is widely considered to be a global gold standard in responsibility. We believe that it is through this system of self-regulation, which the Government endorsed in its Alcohol Strategy, that real progress has and will continue to be made in ensuring that alcoholic products are promoted responsibly in the UK.

Within this context, we do not agree that the Government should put an end to off-sales premises supplying alcohol at a reduced price on the purchase of one or more of the product, or of any other product, whether alcohol or not. We believe that other alcohol manufacturers should be encouraged by the Government to support the Portman Group's Code of Practice as this would be much more effective in preventing irresponsible promotions.

We believe the Government's proposals are not evidence-based, fair, proportionate or effective. While promotions may encourage increased purchases by consumers who wish to stock up in advance of a celebratory event, such as Christmas or a party, or take advantage of a good offer on a favourite brand, there is no evidence to suggest the increased purchase of a favourite alcohol brand when it is on promotion means it will be consumed at a faster rate than usual. It is also important for the Government to understand the purpose of such promotions for Diageo: to showcase our brands, to encourage customers to buy our products, and to encourage customers to try our new products. Promotions are not intended to increase the overall levels of alcohol consumption in the UK through increasing individual consumers' consumption, rather to grow companies' market share.

The results of the Scottish Government's Quantity Discounts Ban demonstrate very clearly that such pricing interventions are not successful in reducing total alcohol consumption levels or levels of alcohol misuse. An analysis of its impact was published by NHS Health Scotland in June 2012.<sup>xxviii</sup> The report clearly states that 'There has been no obvious change in weekly trends of off-trade alcohol sales per adult in Scotland in the period of 2011 after the introduction of the quantity discount ban, or during the first part of 2012, compared with trends in previous years or in England & Wales'. It would be irresponsible for the Government to implement a policy that would raise prices for all consumers in the hope that it may help reduce harm among a minority, for which there is no evidence. It would be unfair to the responsible majority who enjoy the price benefits of promotions.

Diageo also fully supports the Parliamentary Health Select Committee's position on Multi-Buy Promotions which states that the 'evidence does not convince us that a ban on multibuys is either desirable or workable'.<sup>xxix</sup>

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## Reviewing the Mandatory Licensing Conditions

The Government's review of mandatory licensing conditions has come soon after the review of licensing in the Police Reform and Social Responsibility Act and we believe that the Home Office could have allowed more time for the new measures in the Police Reform Act to be fully implemented and evaluated before reviewing the mandatory code.

Nonetheless, we support the application of the current code and believe that an evidence based approach should be employed in deciding whether the conditions should be reviewed or augmented. General compliance with the current mandatory code is high and there is little evidence that further conditions would improve the ability of licensees and premises to better meet the licensing objectives.

However, The Mandatory Code represents a potential opportunity for Government, under the 'reducing red tape

challenge', in that the Code could sit comfortably under a co-regulatory model, similar to that for advertising and the ASA.

This could involve legislation enshrining the broad principle of the code but mandating an appropriate third party organisation, such as The Portman Group, to develop, maintain and manage a set of standards for retailers, with current mandatory code sanctions and action by local licensing authorities as a backstop where retailers are not prepared to comply.

The advantage of the co-regulatory model is that a legislative underpinning protects the code from the issue of anti-competitiveness that prevented the previous BBPA guidelines from operating effectively, but allows the content to be responsive to market changes in a way that legislation cannot be.

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## Health as a Licensing Objective for Cumulative Impact Policies

Diageo does not support the introduction of health as a licensing objective for Cumulative Impact Policies (CIPs). We do not believe that such an objective will help tackle the irresponsible consumption of alcohol as we do not believe that the number of licensed establishments in an area has a direct impact on alcohol misuse levels. There is no empirical evidence to demonstrate such a relationship, and the overall trend in the UK of an increase in licensed premises along with a decrease in levels of total alcohol consumption suggest the opposite.

Diageo also agrees with the Scotch Whisky Association that introducing health as a licensing objective could add another

layer of complexity to a licensing system which is already very comprehensive in its nature. Experience from Scotland suggests that introducing such an additional objective is not always easy to implement effectively and can place a substantial cost on Local Authorities.

We believe that what is more effective in tackling alcohol-related harm is ensuring that licensed premises sell and market alcohol responsibly. CIPs should not prevent new, responsible entrants into a market as this would have strong the potential to reward those established premises which sell alcohol irresponsibly by artificially limiting their competition.

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## Freeing Up Responsible Businesses

Diageo supports the Government in its ambition to reduce the regulatory burden on responsible businesses which manufacture and sell alcohol. However, as a general point, the measures being consulted upon would have a limited effect in reducing such a burden when seen within the wider context of the other policies in the Alcohol Strategy. A Minimum Unit Price and Ban on Multi-Buy Promotions, particularly, would result in a substantial cost to industry in terms of implementation, management, and compliance.

However, Diageo supports in principle the Government's measures to free up business, along with its accompanying emphasis on the importance of business acting responsibly. We would also like to take this opportunity to encourage the Government to continue with its voluntary, collaborative approach to developing regulation where possible.

February 2013

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- viii Summary from 2011 NHS Statistics on Alcohol, 26 May 2011
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