

FEDERVINI

Federazione Italiana Industriali Produttori, Esportatori ed Importatori
di Vini, Acquaviti, Liquori, Sciroppi, Aceti ed affini



Il Presidente

Roma, 6th February 2013

Prot. n. 129/
E-mail

alcohol.consultation@homeoffice.gsi.gov.uk

Dear Sirs,

Federvini, the Italian Association representing wine, spirits and vinegars producers, exporters and importers, thanks you for inviting views on the government's alcohol strategy.

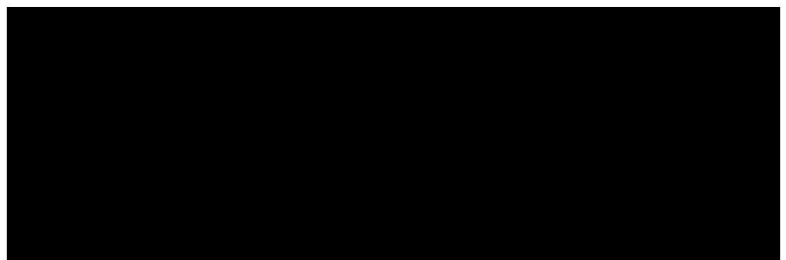
While welcoming your targeting of harmful drinking, Federvini fully supports the comments regarding Minimum Unit Pricing made by both the WSTA and SWA in their submissions to the consultation (both attached).

Federvini is firmly convinced that Minimum Unit Pricing (MUP) policy will not address the harmful drinking problem it sets out to solve.

For that we encourage the UK Government to take into full consideration the detailed opinion issued by the European Commission on the same proposal submitted by Scotland to refrain from using price policy instruments to address alcohol-related harm.

We are at your disposal for any other request you may have regarding our involvement into this consultation.

Yours faithfully,



Home Office Consultation

**A consultation on delivering the Government's
policies to cut alcohol fuelled crime and anti-
social behaviour**

Response from the Wine and Spirit Trade Association



February 2013

Contents

Introduction	3
Minimum Unit Pricing	7
Banning multi-buy promotions	13
Cumulative Impact Policies and the health objective	16
Review of the Mandatory Code	18
Reducing regulatory burdens	21
Alcohol Strategy Impact Assessment	23
Recommendations	28
Industry initiatives to tackle alcohol harm	29

Introduction

The Wine and Spirit Trade Association (WSTA) is the UK organisation for the wine and spirit industry representing over 340 companies producing, importing, transporting and selling wines and spirits. We work with our members to promote the responsible production, marketing and sale of alcohol and these include retailers who between them are responsible for thousands of licences.

We work with our members and other partners to reduce anti-social behaviour related to alcohol through initiatives such as Challenge 25, which was developed by the Retail of Alcohol Standards Group; Community Alcohol Partnerships which have proven successful in reducing alcohol related crime and anti-social behaviour and with the Government through the Public Health Responsibility Deal.

In 2012 the industry also provided £5.2m of funding to Drinkaware to develop social marketing campaigns and education programmes to encourage responsibility among young adults and change attitudes about drunkenness. We believe that initiatives that seek to engage with business, rather than restrict, are those which result in the most positive outputs.

The WSTA fully supports the Government's overall aim of trying to reduce alcohol misuse, alcohol related harm and alcohol related crime and anti-social behaviour. However we believe that all initiatives should be targeted, evidence based and focused on constructive partnership working between the trade, government and other stakeholders.

The Government should focus on measures that attempt to deal with irresponsible drinkers and irresponsible licenced premises, rather than measures that negatively impact on the majority of the population that drink responsibly.

Challenging assumptions

There are concerns that the alcohol strategy and consultation document makes a number of assumptions that do not accurately reflect the current landscape when it comes to alcohol and alcohol related harm. While no-one denies that harmful drinking and associated anti-social behaviour is a problem measures should be adopted, based on the most accurate evidence, in order to better target the problem. Key assumptions made in the alcohol strategy that need to be challenged include:

Assumption 1: Alcohol consumption is growing in the UK

One of the key claims made by the strategy is that alcohol harm is a growing problem and this is directly linked to consumption levels. However, it is important to focus on the facts. Alcohol consumption has actually been falling in the UK since 2004. Since then, total alcohol consumption by head of the UK population has fallen by 13%¹ and average weekly consumption has reduced from 14.3 units to 11.5 units per adult between 2005 and 2010².

This is true of both men and women with the number of men drinking more than 21 units a week falling from 31% in 2005 to 26% in 2010 and the number of women drinking more than 14 units a week down from 21% to 17% over the same period. Furthermore, the Office of Budget Responsibility has recently announced that by 2018 people in the UK will be drinking 2.4bn fewer units.

Assumption 2: Alcohol in the UK is cheap

The UK has among the highest rates of alcohol duty, and therefore among the highest prices, in Europe. For example, the average bottle of wine in the UK is £4.96 compared to £3.15 in Italy, £2.81 in France and £2.43 in Spain³. This is because UK taxation on wine is already the second highest in

¹ BBPA and HMRC data

² General Lifestyle Survey Overview, Office of National Statistics 2010

³ European Commission, ECB, Nielsen and WSTA analysis January 2013

the EU and fourth highest on spirits⁴. Duty and VAT already accounts for 77% of the average price of a bottle of spirits and 55% of the price of a bottle of wine. Last year's Budget delivered a further 7.2% increase in alcohol duty, through the alcohol duty escalator. This represented a cumulative tax increase of 45 per cent on wine and 40 per cent on spirits since 2008 and is set to continue with the escalator in place for a further two years.

In 2012, the UK alcohol industry paid £10.1bn in duty, up from £8.4bn in 2008. Taking both duty and VAT into account, the industry contributes £16.3 billion a year to the public finances, which equates to £316 per UK adult⁵ and is equivalent to double the UK aid budget.

While the strategy claims that alcohol is increasingly more affordable, this fails to take into account the impact stagnant wages and above inflation duty rises has had over the past 4 years.

Assumption 3: Alcohol is being sold at irresponsibly low prices at the cost of the community

The Alcohol Strategy highlights the cost of alcohol as a key concern and highlights examples of what it claims is alcohol being so heavily discounted "it is now possible to buy a can of lager for as little as 20p or a two litre bottle of cider for £1.69." In each case the unit cost of the alcohol is around 10p. In reality, beer selling at 10p per unit represents just 0.1% of the beer market, and cider selling at 10p a unit accounts for just 0.2% of the entire cider market. To suggest that it is this range of products that is contributing significantly to alcohol related crime and Anti-social behaviour is simply not supported by any evidence. Only 0.1% of all alcohol is sold at 10p per unit or less, just 5% of all alcohol is sold below 25p per unit and just 7% at 30p or below⁶.

Responsible retailers take social responsibility and their commitment to the community very seriously. This is evidenced in the work and significant investment in to schemes such as Community Alcohol Partnerships which operate on a community level to develop local partnerships to tackle alcohol related crime and anti-social behaviour.

Assumption 4: Alcohol related crime is on the increase

The main focus of the strategy is alcohol related crime and anti-social behaviour. The reality is that alcohol related crime has been falling. The table below shows that alcohol attributable crimes in England and Wales reduced by over 71,000 (or 15%) from 2007 – 2011⁷. This reduction has in part been brought about by the work the industry has been doing in partnership with local authorities and the police such as Community Alcohol Partnerships, Best Bar None and Business Improvement Districts. These initiatives, that raise standards and promote partnership working, show that it is entirely possible to tackle alcohol related crime without the need for further regulation.

Alcohol-attributable crimes in England, 2007-2011

Total alcohol-attributable crimes	2007-08	2008-09	2009-10	2010-11
Per 1000 population	9.14	8.54	8.01	7.58
Across total population	467,111	439,508	414,996	395,934

Assumption 5: Home drinking is the cause of alcohol related crime

The alcohol strategy focuses quite heavily on the issue of what it calls "pre-loading" and the purchase of alcohol from the off-trade, particularly supermarkets. However it is important highlight

⁴ European Commission and European Central Bank – December 2012

⁵ ONS, HMRC, Nielsen, CGA Strategy and WSTA analysis January 2013

⁶ Nielsen Sales Data for England and Wales, Monitoring and Evaluating Scotland's Alcohol Strategy Report (MESAS) 2011

⁷ North West Public Health Observatory (NWPHO) Local Alcohol Profiles for England 2012 and CEPR analysis

that “pre-loading” is only relevant in an on-trade context as it deals with those who consume at home before entering the on-trade. Distinctions should therefore be made between this and people who buy from the off-trade to enjoy having a drink at home. The Home Office claims that pre-loading itself significantly contributes to alcohol related crime and is contributing to wider alcohol related harms. Yet there is little evidence provided to support these assumptions.

The general assumption that the increase in drinking at home has led to an increase in average consumption is also not based in fact. As outlined above, over the past 7 years the increase in off-licence purchases has come at the same time as a decrease in overall alcohol consumption of 13% and a reduction in the average consumption per person from 14.3 units to 11.5 units per adult⁸.

Similar challenges to the claim that home drinking is the prominent cause of alcohol related crime can also be made. The study outlined in the strategy actually shows that only one in five of all drinkers drink at home before they go out, and provides no data on the volume of alcohol consumed in the home. A more in depth Home Office funded study by Addenbrookes hospital in Cambridge found that while one fifth of those attending A+E had drunk before they went out, over 79% of these said that the majority of their alcohol consumption still took place in pubs and clubs⁹. This would suggest that any claims that significant numbers of drinkers are binge drinking at home before going out to pubs and clubs should be treated with caution. This research found that those drinking the majority of their alcohol in the home before going out only equated to around 4.2% of drinkers.

It is important to recognise that retailers already have the ability to deal with these customers using the current law, as it is already illegal to sell alcohol to someone who is drunk and illegal to sell to someone who is buying for a person that is drunk¹⁰. Ensuring this law is properly enforced, by retailers, the police and enforcement agencies would help to tackle the few that do drink excessively before they go out. Yet this is simply not happening. In 2010 there were just 3 convictions for the offence of knowingly selling alcohol to a person who is drunk and 5 in 2011¹¹.

Assumption 6: Young people’s drinking is the worst in Europe

The alcohol strategy suggested that there is a significant problem with young people drinking in the UK, stating that “levels of bingeing for 15-16yr olds compare poorly with other European countries”. However, this data is taken from 2007 and ignores the fact that young people’s consumption in England and Wales has been in decline since then. The number of 11-15yr old pupils that have tried a full alcoholic drink dropped from 61% in 2003 to 45% in 2010 and 13% of pupils had drunk alcohol in the last week, a decline from 26% in 2001¹².

The reality is that young people’s attitudes to alcohol have changed in the UK. The same report showed that the number of 11-15 year olds that agreed it was “OK to try drinking alcohol to see what it was like” had dropped from 67% to 55% and now 11% of pupils think it is “OK for someone of their age to get drunk once a week”, compared with 20% in 2003.

Part of this culture shift can be traced back to the development of Challenge 25 and Community Alcohol Partnerships by the Retail of Alcohol Standards Group (RASG). Since its introduction, Challenge 25 has led to a steady decline in underage sales through promoting a higher age-verification threshold, better training and clear and consistent messaging. Its voluntary roll out across all major off-trade retailers, and increasingly more independent stores and on-trade retailers, has seen a huge reduction in the accessibility of alcohol to young people.

This is evidenced in the up-to-date European School Survey Project on Alcohol and Drugs (ESPAD) report, published in 2011, which shows that the UK has one of the lowest rates of off-trade

⁸ General Lifestyle Survey Overview, Office of National Statistics 2010

⁹ Pre-loading, where are the binge drinkers coming from? Boyle, Wee, Harris, Porter, Tompkins and Soper. 2009

¹⁰ Licensing Act 2003, Section 141 and 142

¹¹ Home Office and Department for Justice

¹² Drinking, Smoking and Drug use among young people, Department of Health 2010

underage sales, well below the ESPAD average¹³. Additionally, Department of Health research shows the proportion of young people who usually bought alcohol from an off-licence has declined from 27% in 1996 to 16% in 2010¹⁴.

Furthermore, the evidence demonstrate that younger age groups are not only drinking less but also binge drinking less, a similar pattern can be seen for the whole 16 – 24 age group.¹⁵

The key issue facing retailers with underage drinking now is that of proxy purchasing, where an adult buys alcohol and passes it on to a young person. In the same survey, the proportion of young people who said that they usually bought alcohol from a friend or relative had increased from 9% in 1998 to 26% in 2010. This is a particularly difficult problem for retailers to tackle, yet no measure in the strategy seeks to deal with this it.

Assumption 7: Alcohol related hospital admissions continue to rise exponentially

The Strategy cites figures that there are over 1.2m alcohol related admissions in the UK, based on the alcohol attributable fraction model, which have apparently doubled in the past 7 years. However, the Government is currently reviewing how these statistics are calculated as they are not confident they paint a true picture of alcohol related harm. The WSTA believes in evidence based policy making and therefore support the Government's review in an effort to produce more robust and accurate statistics of alcohol related harm. Caution should be exercised by the Government in citing statistics which are currently under review.

¹³ The 2011 ESPAD Report, Substance Use Among Students in 36 European Countries,

¹⁴ Drinking, Smoking and Drug use among young people, Department of Health 2010

¹⁵ Chief Medical Officer's Report 2011, Chapter 3

Section 1 - Minimum Unit Pricing

Q1. Do you agree that this MUP level would achieve the reduction in harm?

No. We do not agree that a 45p Minimum Unit Price will achieve a reduction in alcohol related harm because:

1. There is no evidence it will work

Minimum Unit Pricing has never been tried - Reducing alcohol related harm through a minimum unit price has never been successfully attempted anywhere else in the world. The evidence used to support the policy is simply a projection based on modelling that is now over 4 years out of date. The University of Sheffield model was carried out 5 years ago and has been heavily criticised, with the Adam Smith institute recently concluding “that predictions based on the Sheffield Alcohol Policy Model are entirely speculative”.¹⁶

Canada is not a comparable example – It is important to ensure that the Canadian model of minimum pricing is understood by the Home Office when considering this policy. There are a number of differences between the proposed model and what is in operation in Canada.

- Canada has a floor price and not a minimum unit price, different products have different prices and this is not simply based on the price per unit.
- The majority of alcohol in Canada is sold through a monopoly;
- Despite not having price controls, Alberta sees no higher levels of harm of alcohol related crime than anywhere else in Canada. In fact reports show that consumption and harm are lower there than the Canadian average.¹⁷

Its benefits are calculated using a flawed model - Predictions by the Sheffield study suggested that a minimum unit price of 50p would reduce alcohol consumption by 6.9%. Yet, between 2006 and 2010 alcohol consumption dropped by nearly double that at the rate of around 13% without Minimum Unit Pricing being in place.

Additionally, the model suggests that in this time there should have been¹⁸:

- A 21.42% reduction in alcohol attributable deaths through the 12.6% reduction in consumption in that time. However, alcohol related deaths reduced by just 0.6%.
- A 3.78% reduction in admissions through the 12.6% reduction in consumption. However there has been an increase in alcohol attributable admissions of 11.4%.
- A 3.78% reduction in alcohol related crimes through the 12.6% drop in consumption. However there has been a reduction in alcohol related crimes of 15.2%.

These figures show that the whole population approach to reducing alcohol harm, through reducing overall consumption, is significantly flawed.

2. There is not a simple link between alcohol price, consumption and harm

Proponents of Minimum Unit Pricing suggest that it will be effective as they believe there is a simple link between the price of alcohol, consumption and harm. However, this is not backed up by evidence.

Price and consumption - Countries like Italy have comparatively low levels of alcohol taxation and low prices, yet they also have low levels of consumption. In other countries, such as Ireland for example, taxation and prices are very high but so is consumption. A further example is that of Scotland and England, where they enjoy comparable prices, access and taxation, yet Scotland has a

¹⁶ The Minimal Evidence for Minimum Pricing, John C. Duffy and Christopher Snowdon, 26 November 2012

¹⁷ The Canadian Alcohol and Drug Use Monitoring Survey: Alberta Results, Prepared by Addiction & Mental Health, Community & Treatment Supports, Knowledge & Strategy, April 2012

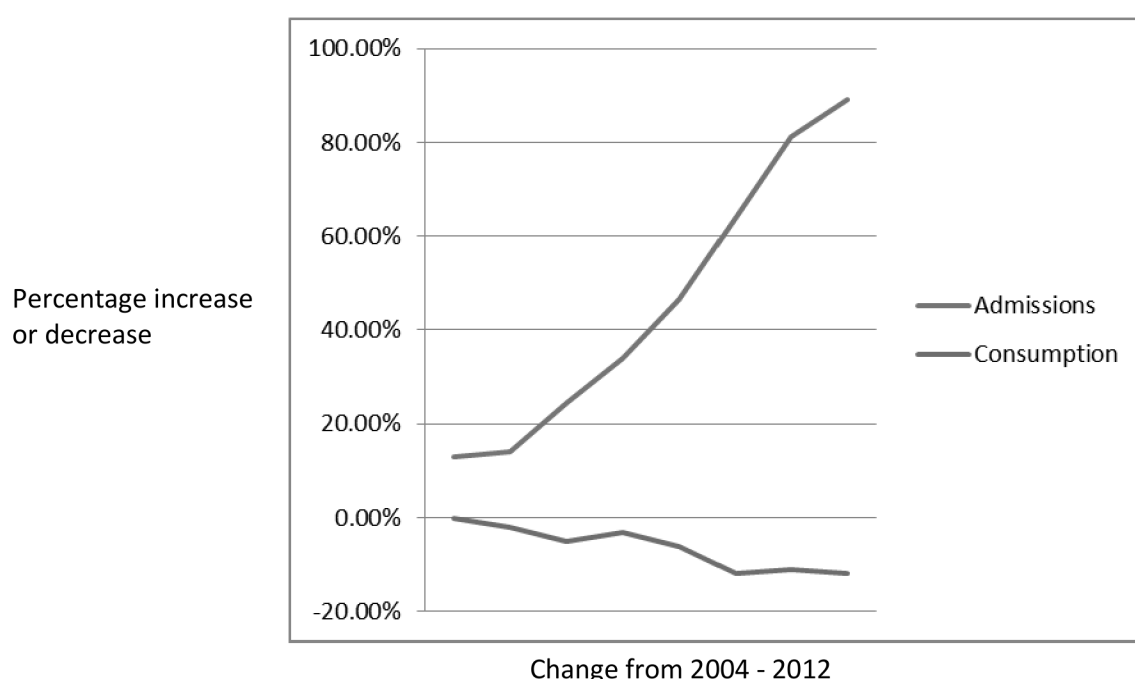
¹⁸ North West Public Health Observatory (NWPHO) Local Alcohol Profiles for England 2012 and CEBR analysis

higher level of consumption. The table in Annex A outlines how this varies from country to country with no uniform pattern.

Consumption and harm - It does not follow that simply because consumption is high in a country, that harm will be high. France for example actually has higher levels of overall consumption than the UK, but they don't see the same levels of alcohol related harm. In addition, while the Sheffield Study estimated immediate reductions in health harms through a direct link to a drop in consumption, this has not been the case over the past 7 years when consumption has reduced by 13%¹⁹.

The graphs below show consumption patterns in the UK since 2004 compared to alcohol related admissions. This shows that while alcohol consumption has been falling by 13%, alcohol related hospital admissions have apparently almost doubled. This goes against the evidence provided by Sheffield, that a 1% reduction in consumption should have resulted in 1.7 fewer alcohol related deaths per thousand, and questions the reliability of admission data the Home Office is relying on.

Figure 1. The rise in alcohol related admission and fall in consumption since 2004.



Price and harm - In Europe alone, it seems that those countries with the highest taxes on alcohol and the highest prices are those where incidence alcohol misuse is considered a problem. Ireland and Sweden both have high alcohol prices, but are perceived to have some of the highest levels of harm. This shows that consumption is more likely to be related to cultural factors and that the increase in prices does not impact on these significantly and has had limited success in changing these cultures.

3. It fails to target irresponsible drinkers or tackle harmful drinking

Heavy drinkers are least responsive to price – When calculating the elasticity of alcohol products, the Sheffield model's analysis shows that, overall, heavier drinkers are least responsive to price changes. Heavier drinkers are more likely to switch from say beer to spirits if the price of beer goes up but the price of other alcohol products remains constant. They are less likely to reduce their overall alcohol consumption even if there is a general alcohol price rise.

The impact of minimum unit pricing is also not as significant for harmful drinkers as the modelling suggests they would only pay an additional £2.64 per week for alcohol at a 50p MUP, the equivalent

¹⁹ BBPA and HMRC analysis

of less than 1 pint per week. The strategy's Impact Assessment itself states "The current SchARR modelling suggests that MUP will reduce the consumption of 11-18 year old drinkers but suggests that the impact on 18-24 year old hazardous consumers will be less. The SchARR model predicts that the young male hazardous drinkers heavily represented within this group have a strong preference for beer and for on-trade sector drinking. Minimum unit pricing is predicted to have a more limited impact on consumption amongst this group." This was backed up by evidence recently presented to the Scottish Government by Dr Holmes of Sheffield University who stated "We have said already that it might not be the best targeted policy to deal with young people's binge drinking, much of which goes on in the on-trade."²⁰

Q2. Should other factors or evidence be considered when setting a minimum price for alcohol?

Yes – There are several additional factors that should be taken into account when considering the Minimum Unit Price of alcohol, including:

Impact on responsible consumers – By its very nature Minimum Unit Pricing cannot be a targeted measure as the strategy claims. It does not make sense to say that a measure that affects all the majority of products in a market, regardless of whether they are being consumed irresponsibly, is a targeted measure. Minimum Unit Pricing set at 45p will increase the price of over half (52%) the alcohol products sold in the off-trade.²¹ This is clearly not targeted and will impact on responsible consumers as 45% of all alcohol currently sold in the off-trade is sold between 30p and 45p per unit of alcohol.

The severity of the measure – There are questions about how appropriate Minimum Unit Pricing is to deal with the issues highlighted. As stated above, alcohol sold at the lowest price points of 10p per unit only account for around 0.1% of alcohol sold in the off trade and 7% is sold at below 30p per unit. With that in mind, it has to be questioned whether such a significant intervention is excessive in tackling this measure.

Impact on illegal activity – The price hikes associated with minimum unit pricing is likely to lead to increased illegal activity. One key concern is the rise in theft and shrinkage from stores. In 2012 Christmas losses due to retail theft in the UK from mid-November to end-December were estimated to be as high as £999.7 million (up 3.4% compared to 2011)²². As alcohol contributes to a significant proportion of overall retail theft, pushing up the value of alcohol will increase attractiveness to thieves and cost businesses even more in the long run.

In addition, alcohol duty fraud, self-brewed alcohol for sale, fake alcohol products and the illegal "White Van Trade" are all likely to increase if the cost of alcohol is increased in this way. A recent report estimated this "shadow economy" to be worth £1.2bn and likely to increase should prices continue to rise. This pushes alcohol further into the hands of unregulated sellers which could increase the risk to consumers.

Impact on EU trade – The Prime Minister stated recently "It is nonsense that people shopping online in some parts of Europe are unable to access the best deals because of where they live. I want completing the single market to be our driving mission". Yet, Minimum Unit Pricing is inconsistent with the operation of the free market in the EU, as an EU member state is generally not allowed to intervene in competitive matters, such as pricing. This creates a potential barrier to trade and is therefore likely to be illegal under EU law. Since the Scottish Government notified the European Commission that it intended to go ahead with MUP, several member states including Italy, Spain, Portugal, Bulgaria, France and the European Commission itself have submitted detailed objections to the policy. The European Commission went as far as saying they "have a problem with the

²⁰ 2nd Report, 2012 (Session 4): Stage 1 Report on the Alcohol (Minimum Pricing) (Scotland) Bill

²¹ Nielsen Sales Data for England and Wales, Monitoring and Evaluating Scotland's Alcohol Strategy Report (MESAS) 2011

²² Bamfield, J A N (2012) *Shoplifting for Christmas 2012: How Criminals Profit From the Festive Season*, Centre for Retail Research

compatibility of the minimum pricing plans under Community law” and that it “causes problems with the compatibility with the EU Treaty”

Should the Government press ahead with Minimum Unit Pricing it could face similar protectionist methods by other member states in retaliation, which would damage UK exporters. Further to this, concerns could be raised by the World Trade Organisation and non-EU states, which will see this as a restriction by trade and potentially take action against this.

The disproportionate impact on those with low incomes - Minimum Unit Pricing is a regressive measure that will have the biggest impact on those on the lowest incomes. Analysis by the Centre for Economics and Business Research (CEBR) found that on average a MUP of 40p will be felt by the poorest 30% of drinkers only. At 50p the lowest 10% of earners would see the cost of alcohol rise by 1% of their total income, compared to just 0.2% of the highest 70% of earners²³.

This is despite the fact that low earners on average drink less. According to ONS data²⁴, people in each income group, with the exception of the 2 highest, drink less than the national average. Consumption of those in the lowest income group is 6% lower than the national average.

The lack of impact on underage drinking – As highlighted above, the rise in proxy purchasing is one of the main challenges retailers face with underage drinking. Minimum unit pricing is likely to have little impact on parents’ or other adults’ willingness to buy alcohol for children. This is why RASG pioneered the Community Alcohol Partnership approach which focuses on both the supply and demand side of underage drinking. By working in partnership with local stakeholders, Community Alcohol Partnerships have helped to tackle local issues facing communities. It is this type of locally tailored approach that the Government should be championing as part of the alcohol strategy instead of untested and restrictive policies such as minimum unit pricing.

The impact of creating a “Sensible appropriate price” - It is worrying that the Government is seeking to define what is a “sensible, appropriate price” for alcohol, as it will by introducing Minimum Unit Pricing. One consequence could be retailers claiming that all of their promotions are “responsible” as long as they come in above the minimum unit price threshold. For example, a retailer could run a promotion that allowed “10 vodka shots for £4.50 or 5 shots for £2.25” and claim that this is responsible as it falls above the Government’s definition of a “sensible appropriate price”. This measure would therefore make it much harder to enforce the ban on irresponsible promotions set out in the mandatory code if the promotion is simply based on price.

Q3. How should the MUP be adjusted over time?

We are opposed to the suggestion that Ministers should be empowered to raise the level at which a minimum unit price should be set and varied at regular intervals. It is important with any legislative change that reasonable time is given for the impact to be fully considered before more significant changes are made. We would also urge that any future increases to the level of minimum unit pricing should be subject to consultation with the industry and subject to a full debate and vote in Parliament. Ministers have talked about minimum unit pricing as a mechanism to reduce the amount of alcohol being sold. Our view is that government policy should not be focussed on minimum unit pricing, which is a general policy affecting all consumers, but on the minority of consumers who misuse alcohol.

It is also important that the Government considers a sunset clause for this policy, similar to that legislation in Scotland. This will ensure that if the policy fails to do what it intends then it will lapse automatically after a set period of time.

²³ Minimum Alcohol Pricing and the Squeeze on Low-Income Households, Centre for Economics and Business Research, March 2012

²⁴ General Lifestyle Survey Overview, Office of National Statistics 2010

Q4. Are there groups or organisations other than drinkers that could be particularly affected by MUP?

Yes – Several other groups will be impacted by Minimum Unit Pricing including:

UK taxpayers – In addition to increasing the cost of alcohol to consumers by an anticipated £1bn²⁵, the consultation suggests the implementation of Minimum Unit Pricing would also leave a shortfall of £200m of taxation. This shortfall would have to be met either by cuts to other Government budgets, or in an increase in taxation. Therefore the general public would in some way have to pay for the policy to be implemented.

They will also be punished through higher prices and reduced choice.

Own brand producers - Minimum pricing will undermine lower priced and own brand products threatening jobs in the UK. A minimum price of 45p per unit would mean that a 1 litre bottle of own-brand spirits at 40% abv would cost £18. At such a level the own-brand products would lose their competitive advantage and would be competing in the same price range as branded products which are supported by large marketing and advertising budgets. Given that 18% of direct employment in the European spirit industry is in the UK, the highest of any member state, this measure would seriously impact on jobs and growth in UK.

Businesses complying with the regulations– Minimum Unit Pricing would result in considerable costs to businesses, large and small, as they have to implement costly and complex new systems to deal with the regulations. Retailers would have to invest significantly in new computer systems to deal with the restriction, increase training for all store managers and redevelop their business practices to meet the restrictions. Given the questions over its legality and impact, the massive regulatory burden on business would be disproportionate to any outcome they are trying to achieve.

Furthermore, retailers attempting to deter and reduce retail theft are having to invest significantly in measures such as tagging and CCTV to prevent alcohol theft. This will only increase as the value of alcohol continues to rise.

The UK Treasury and businesses - Price restrictions will inevitably damage UK businesses as consumers seek alcohol at normal market prices from other sources. With the cost of alcohol in neighbouring France significantly lower (an average bottle of wine in the UK would cost £4.50 on a 45p minimum price, compared to around £1.89 in France) consumers are inevitably going to take advantage of cross border shopping opportunities. At its height 13% of all alcohol trade in the UK was cross border. A recent example from Northern Ireland in 2008 shows that alcohol sales increased by over 25% following price rises in the bordering Republic, where off-licence sales alone fell by 16%²⁶.

Enforcement agencies and enforcers– considerable cost will be borne by enforcement agencies that will have to monitor compliance and take enforcement action for failure to comply. This will involve monitoring hundreds of products in stores and making complex calculations in order to ensure that products are being sold above the minimum price level. There are also a number of outstanding concerns with how the legislation will be implemented at a practical level.

Conclusion

Overall, Minimum Unit Pricing focuses on punishing retailers and producers rather than attempting to tackle the few who drink irresponsibly. It will impact on the majority of responsible consumers while doing nothing to tackle alcohol related harms. It is a significant and unjustified market intervention that will cost all consumers and business to introduce for very little gain.

²⁵ Home Office, Alcohol Strategy, Business & Regulatory Impact Assessment of Minimum Unit Pricing

²⁶ Nielsen NI Scantrack Data

Establishing a floor price for alcohol could have been achieved with the implementation of the ban on sales below the level of duty plus VAT. This was supported by the WSTA and others and could have ensured that the worst examples of heavily discounted products were targeted without impacting on the responsible alcohol consumer looking for good value for money.

Section 2 - Ban on Multi-Buy Promotions

Q5. Do you think there should be a ban on multi-buy promotions in the off trade?

No - The WSTA opposes the introduction of restrictions on the sale of alcohol products in packages of two or more. The policy is likely to do little to reduce alcohol related harm and will come at a considerable cost to retailers and licensing authorities who will have to enforce the restriction. The proposals could also restrict competition and penalise those on low incomes. Specifically, we oppose the policy for the following reasons:

It is not a targeted measure – Similar to Minimum Unit Pricing, the proposed ban is a blunt instrument which will affect the majority of responsible consumers. It is not targeted at alcohol misuse and it will have a disproportionate impact on consumers on a tight budget. Far from being a targeted measure, the types of promotion that are intended to be caught by the restrictions include:

- Buy one get one free
- Three for the price of two
- Five for the price of four, or cheapest free
- 3 bottles of wine for £10
- Buy six, get 20% off
- 5% off a case of wine

There is no evidence it will reduce sales – Unlike Minimum Unit Pricing, a multi-buy ban has been attempted in Scotland. The Scottish Government introduced a quantity discounts ban in Scotland on 1 October 2011. The ban prevents off-trade retailers from offering discounts on multi-buy purchases such as '3 for 2' or '25% off when you buy 6' in the same way the Home Office proposes. An analysis of its impact was published by NHS Health Scotland in June 2012²⁷ and found:

- There has been no obvious change in week-to-week per adult alcohol sales in Scotland during the period after the introduction of the quantity discount ban in 2011.
- In Scotland, the volume of pure alcohol sold in the off-trade was similar in the 52-week period before the ban (October 2010–October 2011) compared with the same period 12 months earlier (0.5% decrease).
- Following a period of relative stability, there has been a small reduction in off-trade alcohol sales in Scotland since the introduction of the quantity discount ban. However, a reduction was also seen in England & Wales where no ban was introduced.

This report raises serious questions about the effectiveness of this type of regulation in reducing alcohol sales, let alone combating alcohol misuse. There are considerable concerns that the cost of adopting this proposal to the trade and regulators will be disproportionate to any impact it may have.

Originally it was argued that the very nature of the promotion was enough to encourage increased sales, yet these figures show that this is not the case. In Scotland it is accepted that this measure will not work without Minimum Unit Pricing, which is effectively saying that this measure is obsolete. It was for these reasons that the Northern Ireland Executive recently dropped their plans to introduce their own ban on multi-buys.

²⁷ Monitoring and Evaluating Scotland's Alcohol Strategy (MESAS), Preliminary descriptive analysis of the impact of the quantity discount ban on off-trade alcohol sales in Scotland June 2012

There is no direct link between sales, consumption and harm – as outlined above there is no evidence of a direct link between sales and harm. Even if the measure did have an impact on the volume of sales, this would likely have little impact on the level of alcohol harm caused by irresponsible consumption. There is also little evidence to support the argument that the multi-buy restriction will lead to a reduction of consumption.

Research also suggests that people will generally spend the same amount of their disposable income on alcohol across the year, regardless of promotions that are being run. While buying patterns are likely to take time to adjust to the new restrictions, the overall amount of alcohol purchased and consumed may not change significantly.

It distorts the market - In addition to restricting competition between retailers, there are two types of business model that this measure would particularly impact adversely. Both wine clubs and cased wine businesses base their business on the bulk purchase of alcohol. This includes offering discounts, such as 5% off or a reduced bottle price, on the multiple purchases of products and generally have minimum purchase amount. Introducing this ban would mean these businesses would have to redesign their business models and would find it more difficult to compete.

Q6. Are there any further offers which should be included in a ban on multi-buy promotions?

No – Retailers take their role as responsible sellers of alcohol very seriously. Working to the principles of The Portman Group code and Advertising Standards Authority codes they ensure that alcohol is not promoted in the off-trade in a manner that encourages irresponsible consumption. The proposed measures focusing on price would already amount to one of the most serious interventions in the single European market by the Government, and any further suggested measures should be seen in that context.

Given that there is no proven link between price and harm, the Government should focus on developing policies that look to tackle the irresponsible few who misuse alcohol and very few irresponsible retailers at a local level rather than punishing responsible retailers and moderate consumers, many of whom are on moderate and low incomes and are simply looking for value for money.

Q7. Should other factors or evidence be considered when considering a ban on multi-buy promotions?

Yes – the key evidence that should be considered is the impact of this policy when implemented in Scotland. This shows that the policy failed to have an impact on sales let alone alcohol related harm. The cost of this policy in Scotland has also been considerable to business and these costs must be fully considered when the Home Office is making its final decision.

It is also worth looking at the example of Northern Ireland, where this policy was considered, but ultimately rejected by the Executive.

Further evidence that should be considered includes evidence of people's buying habits and types of promotion. Some major supermarkets chains are now revising their pricing strategies across their product ranges to focus on lower costs for individual products, rather than multi-buy promotions. This proves that there is a business case for focusing on single product discounts. It would therefore be counter-productive to the aims of Home Office if forcing retailers to switch to these discounts ended up benefitting them with higher sales.

Q8. As well as drinkers do you think there are other groups that could be particularly affected by a ban on multi-buy promotions?

As with Minimum Unit Pricing, the following are likely to be impacted by the proposal:

Enforcement agencies and enforcers – In order to effectively police this new restriction, the cost of enforcement will have to rise in order to allow stores to be monitored for any breaches. In addition to further training and guidance on the issue, the nature of the restrictions means that enforcement officers would have to allocate a significant amount of additional time to a store in order to check all promotions were compliant.

Businesses complying with the regulations- responsible businesses that comply with the regulations will have to meet the cost of amending their systems and changing management practices. The costs of this are expected to be considerable and could come at the expense of jobs and growth.

Additionally, the measure also goes against the basic business principle that mass production of goods is cheaper than smaller batch production. As the ban prevents the efficiency benefits of larger production being passed on to the consumer, it makes it more profitable for producers to manufacture larger packages.

3. Reviewing Mandatory Licensing Conditions

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

The WSTA supports the application of the current code and believes in taking an evidence based approach to whether the conditions should be reviewed or added to. Generally compliance with the mandatory code is high and there is little evidence that further burdens would improve premises capacity to better meet the licensing objectives.

Q9. Do you think the mandatory licensing conditions are effective in promoting the licensing objectives of crime prevention, public safety, prevention of public nuisance and prevention of harm to children?

Yes – the mandatory code sets a basic standard that licensees must abide by and this helps to raise standards of best practice within licenced premises. The balance of looking to tackle irresponsible consumption, as well as promoting responsible consumption through smaller glass sizes and free tap water, has worked well and is not too onerous for licensees.

Having an age related sale policy is also vitally important in the fight to tackle underage sales and something all responsible retailers should be doing. Again, this basic minimum helps to raise standards in store and is appropriately applied across the on and off-trade.

Q10. Do you think the mandatory licensing conditions do enough to target irresponsible promotions in the on-trade?

Yes – The measures in force do deal with the most irresponsible of promotions sufficiently. Other promotions in the on-trade should be judged in the context in which they are operating. For example, promotions in areas with high levels of alcohol related crime and ASB may be deemed as irresponsible, whereas the same promotion in an area with low alcohol related crime could be seen as being acceptable. Retail management in the on trade should always risk assess the impact of a promotion and review any health and safety implications this may have. On-trade retailers should also be encouraged to work in partnership with enforcement agencies to ensure that promotions do not pose a threat to the licensing objectives. If this is done properly, there should be no need for further restrictions on promotions.

Q11. Are there any other issues relating to the licensing objectives that could be tackled through further mandatory conditions.

Proxy Purchasing – as described above one of the key issue facing retailers is that of proxy purchasing. A licensing condition could be added, either to the age verification condition, or as a standalone condition that ensure licensees are trained to understand the legality and dangers of proxy purchasing and how to handle this in their store. Work could be done with the trade to develop appropriate and workable wording for the condition.

Raising Standards – Responsible retailers ensure that basic standards are followed to help prevent underage sales. For example keeping a refusals book and providing training for staff on age related

sales. Changes to mandatory conditions could be made to ensure that procedures are adhered to in every licenced premise.

Q12 Do you think the current approach, with 5 mandatory conditions applying to the on-trade and one to the off-trade is appropriate?

Yes – A number of the provisions in the mandatory code, such as smaller glass sizes, free tap water and banning dentist chair style consumption, are simply not transferable to the off-trade.

In addition, the off-trade already complies with restrictions on irresponsible promotions through their work with the Portman Group and through the Advertising Standards Authority. Off-trade retailers ensure that alcohol is not packaged, promoted or advertised in a way that is irresponsible and retailers remove products if they are deemed to be in breach by the Portman Group. Since the Portman Group was set up in 1989, it has banned over 80 irresponsible products in co-operation with retailers. As this is working on a voluntary basis already, the only suggested measure to improve this could be to ensure that more licensees agree to comply with the Portman Group code of practice to remove products they deem to be irresponsible.

All other promotions in the off-trade are price based and are being dealt with in the consultation on minimum unit pricing and the ban on multi-buy promotions.

The only measure related to both the on and the off-trade, which mandates retailers to have an age verification policy, is appropriate to both and should remain. Given the success of Challenge 25 in reducing underage sales, the Home Office could consider ways to enhance this provision to ensure that the high standard adopted in the Challenge 25 scheme applies to all retailers.

4. Health as a Licensing Objective for Cumulative Impact Policies

Introduction

The WSTA does not support the addition of health as an objective to Cumulative Impact Policies (CIPs). CIPs are a blanket measures which do not take into account the extent to which operators are responsible and they will be ineffective in dealing with the issues they are seeking to tackle. Any changes to the licensing regime should be evidence based and there is simply not sufficient evidence provided to support this policy.

CIPs were initially put forward as a way for licensing authorities to limit the growth of licensed premises in a problem area. Specifically, they focused on areas with a significant number of on-trade premises and were focused on issues caused at closing time when patrons from numerous venues would leave at the same time creating stress points in a particular area.

The principle of the policy is to seek to limit the number of patrons to a particular area by way of limiting the maximum capacity of all of the bars and clubs. It in turn reduces, or prevents, further pressure on the stress points that are caused at closing time. This approach allows licensing authorities to ensure that the licensing objectives continue to be met (where a new licence could put that at risk).

However, the policy was not intended to limit the overall volume of alcohol sold in an area or attempt to improve health harms, other than by way of reducing alcohol related crime. Its extension to the off-trade was never envisaged when originally developed. The off-trade is entirely different in nature to the on-trade, as there is not a set capacity in the same way there is for pubs and clubs. One off-licence may have the potential to sell as much alcohol as 10 off-licences, whereas there is a capacity limit for on-trade premises. That is why attempting to use this policy for different purposes than was originally intended will have considerable unintended consequences which will negatively impact responsible licensees, consumers and enforcement authorities. These include:

Rewarding irresponsible businesses – By restricting new entrants into an area, Cumulative Impact Policies offer existing businesses a significant competitive advantage. This restriction of competition is particularly perverse as many existing on trade licensees who would benefit from the CIP could have been the original contributors to the disorder that led to the policy being introduced in the first place. Therefore, this policy not only does nothing to promote responsible retailing, but also risks rewarding irresponsible retailers.

Threatens inner-city investment – The restriction of licenses in a CIPs area, and the higher threshold that needs to be met to prove that the premises will meet the licensing objectives, is likely to significantly reduce investment in the areas in which these policies are in place. The majority of retailers will not open a store without an alcohol licence, as this puts the store at a total disadvantage to competitors, and therefore inner city areas, where CIPs are most likely to be utilised, could miss out on investment and regeneration opportunities. It is important to remember that only around 10% of an inner city supermarket will account for alcohol and therefore impacts retailers more widely. These areas are also likely to have higher unemployment rates and the loss of investment could also have a negative impact on local employment.

Impact on small shops - By their very nature, Cumulative Impact Policies are more likely to be operational in densely populated areas and are therefore going to have a much greater impact on smaller stores. With the sale of alcohol an important part of income for independent stores, the limitation on licences will mean that new stores are unlikely to be financially viable. Where the local population is growing this is likely to have a detrimental impact on the sustainable growth of inner cities, which could become poorly serviced by local convenience stores.

Particular Impact on the Off-trade – As outlined above, the original intention was never to include the off-trade in Cumulative Impact Policies. This was because it is almost impossible to link the harm that it was trying to prevent to individual off-trade retailers, the link to off-trade retailers and to the crime it was trying to prevent.

Unlike the on-trade which operates primarily for the purposes of selling alcohol, the off-trade operates throughout the working day and sells alcohol as only a part of a much wider range of food products. This means that the removal of a licence from the on-trade would be significantly more onerous than for the off-trade

There is no evidence that numbers of licences increase consumption - There is no robust empirical evidence establishing a direct causal link between off-trade licensed premises and alcohol harms. Very few other studies have taken place in the UK and those that have, have produced inconclusive results. Alcohol Concern's report on the subject, that is widely cited, found that no relation existed between the level of licences awarded and harm caused by excess drinking across the whole of London. In fact, the UK has seen a rise in the number of licenced premises in the past 7 years at the same time as consumption has been consistently reducing, suggesting this link is not as strong as has been suggested.

Q13. What sources of evidence on alcohol-related harm could be used to support the introduction of a CIP?

The most difficult issue faced has been linking health harms from a wide area, perhaps from a hospital that covers a number of authorities, to a particular venue or cluster of venues. The type and robustness of the data presented has been questionable at best and very little can be done to assess the impact of how people travel from different areas to different premises and use different hospitals. In many areas it was found that the places with the worst health harms sometimes had no alcohol licences in the locality at all.

A similar picture may exist in the UK, but there are no sources of data currently available that can tie specific health harms to particular licenced premises. To carry out an appropriate analysis would be particularly problematic as many health harms related to alcohol take place over a considerable period of time. In addition, data sources that are available, such as alcohol admissions data, are currently under review as there are questions over how accurate and robust they really are.

There is likely to be significant variation in how local authorities would approach the improvement of health as an objective for CIPs: were this to be attempted, it would lead to an incredible amount of uncertainty for the trade and difficulty in developing uniform policies across stores.

There is also an issue with the application of this to the off-trade. Every bottle of beverage alcohol sold from an off-licence has the potential to cause health harms if it is consumed irresponsibly. What this proposed policy does would be to blame the retailer, rather than tackle the irresponsible behaviour of the person consuming it.

Q14. Do you think any aspects of the current CIP process would need to be amended to allow consideration of alcohol-related harms?

In order for this policy to work, the evidential basis for health harms would have to be much lower than for crime and anti-social behaviour, as the health harm data is simply not robust enough or specific enough to be used in an appropriate way. Where previously evidence of crime and disorder would need to be provided and related to the area or specific venues, the impact of alcohol on health harms is much more vague and difficult to directly link to either the area or the venue. There is simply not enough robust or specific evidence to support the addition of health as a licensing objective.

Q15. What impact do you think allowing consideration of data on alcohol-related harms when introducing CIP would have if it were used in your local area?

The application of this policy would significantly increase the likelihood that new licenses are not granted in CIP areas. Proving that a new licence will not contribute to health harms in an area is almost impossible for retailers to do and could lead to a significant reduction in the number of licences granted to responsible retailers. It could also lead to a culture in which lower evidential burdens for CIPs are seen as the norm in a given licensing area.

The proposal significantly shifts the emphasis of CIPs way from the original objective of crime and disorder and takes them into uncharted territory. This is likely to be wildly different from authority to authority, which will lead to greater uncertainty for business and a greater number of legal challenges.

Again, the impact of the proposal on the off-trade will not be to reduce sales and harm in a particular area, but simply distort the market and prevent investment by responsible retailers into inner cities.

5. Removing Regulatory Burdens

While the WSTA is pleased that the Home Office is considering the regulatory burden it places on licensees, the proposed interventions of Minimum Unit Pricing, the ban on multi-buy promotions, health as an objective for CIPs and a review of the mandatory code after just 2 years of its implementation all seriously increase the regulatory burden on business rather than reduce it.

The significant cost and compliance burden of these measures are many times higher than the benefit of the small measures for review set out in the consultation document. While there is a need to reduce the regulatory burdens in the licensing regime, the Home Office needs to look at the whole range of measures it is proposing, and the regulatory burden that these would place on business, and not just the few measures highlighted in this section of the strategy.

The WSTA is not opposed to regulations that have a positive impact on the trade. For example, those regulations that promote best practice and raise standards, such as having an age verification policy, are to be welcomed. This type of regulation helps to create a level playing field by ensuring that the example set by responsible retailers is followed by others. It also ensures that minimum standards are reached, which in the long run will save on burdens further down the line by preventing alcohol related crime and anti-social behaviour.

The WSTA also supports the principle of the Government's "one in two out" policy with regards to new regulations. However, while this principle is to be welcomed, it is important that the Government ensure that there is a balance between the regulations they bring in and the regulations they remove. For example, the impact of bringing in Minimum Unit Pricing would not be mitigated by removing two regulations that have very little impact on the trade overall, such as those for ancillary sellers or motorway service stations.

Q30. Do you agree with the proposal to remove the need to advertise applications in local newspapers and to simplify the renewal of personal licences?

A) Advertising in Newspapers

Yes - this is a needless burden and can be done more efficiently using the internet and other means. Local newspaper readership is incredibly low and continuing to decline and therefore asking licensees to spend around £8m per year to advertise in them seems particularly burdensome.

B) And C) Restrictions on Motorway Service Areas

Yes – There are already a significant number of stores in the UK that you have to drive to in order to shop. Therefore there is no reason why licencing on the off-trade should not be allowed for those stores operating at MSAs, as the same principle applies. This would also apply to those that have overnight stays. The WSTA would therefore support dropping the restriction on the off-licence trade in respect of overnight accommodation. The fact that there are a number of MSA's that do operate with a licence means this measure would level the playing field for other MSA's.

D) Requirements to renew personal licenses

Potentially – The trade supports the Governments drive to reduce burdens on businesses by removing the need to renew a licence every 10 years. This is incredibly costly and serves very little purpose. The only concern is that refresher training that would take place at the 10 year mark may not be run. If the Government do remove the need for renewal, it should continue to encourage the best practice and refresher training.

Q31. Do you think these changes would remove the burden on business?

A) Advertising in newspapers

Yes – However this reduction in burden needs to be placed in context of the wider Home Office proposals.

B) And C) Restrictions on MSA's

Yes – This would reduce the burden on businesses operating in MSA's. Again, this needs to be seen in context as this makes up only a very small percentage of premises license and alcohol sold in the UK.

D) Requirements to renew personal licenses

Yes – This measure would benefit businesses and reduce financial and administrative burdens.

Q33. Are there processes under the Licensing Act that could be removed or simplified to reduce the burden on businesses without undermining the licensing objectives?

Yes –

Consistency of approach - Measures that promote consistency across all authorities would be of considerable benefit to retailers and help to promote a high standard of compliance across the UK. Currently, practice across local authorities differs wildly and this creates uncertainty and additional costs for business. Examples of this include widely different interpretations of the law around licensing or different wording for similar licence conditions in different authorities. While we appreciate that local authorities need to be able to respond to issues unique to their area, promoting greater consistency and ensuring there is greater standardisation of approach would significantly reduce the burden on businesses.

Extending Primary Authority - While a pilot on primary authority has taken place, the scope of this is limited and further consideration should be given to whether primary authority in the alcohol licensing system can be extended, while ensuring that local authorities are able to manage the problems they have at a local level.

Licence fee discounts for responsible retailers – With the implementation of full cost recovery of licence fees, the trade will shoulder more of the cost of administering the licensing regime. One of the anomalies of the fee system is that the cost of irresponsible retailers, through enforcement and licensing authority resources, is paid for by all retailers. The WSTA believes that the Home Office should allow local authorities to incentivise responsible retailing by offering them a fee discount on the speed of application. Therefore when licensees carry out the necessary due diligence and are granted a licence without any issues, this should be rewarded with a fast-track discount. This will help to reduce the costly burden on authorities, support responsible retailing and better promote the licensing objectives.

Single date for licence renewals - Section 5 of the Licensing Act (Fees Regulations) 2003 requires annual payments a year on from the date the licence was granted. It is a burden on both the industry and local licensing authority that have to remember to renew Premises Licenses. With over 100,000 Premises Licenses in England and Wales all with different renewal dates, the burden is considerable. Retailers operating on a national basis find this particularly burdensome. A leading licensing practice commented that the absence of a common payment date is a logistical nightmare for them and clients alike and that an annual date would remove a lot of uncertainty. The burden has been exacerbated by the power of suspension of a licence for non-payment brought in under the Police Reform and Social Responsibility Act 2011.

Section 6 – Impact Assessments

Q34. Do you think that the Impact Assessments related to the consultation provide an accurate representation of the costs and benefits of the proposals?

No – We have serious concerns about how the Home Office arrived at a number of the conclusions in the Impact Assessment. These include.

Minimum Unit Pricing

Benefits to society – There is significant concern that the Impact Assessment has been entirely based on the Sheffield Study, and questions have recently been raised over the accuracy of its predictions. This method to predict the anticipated benefits could mean that there are flaws or overestimates of the societal benefit of MUP. Alcohol consumption has been falling since 2004 and we have not seen the reduction in alcohol related deaths and hospital admissions that Sheffield predicted. The Sheffield study took place in 2006 and should therefore not be relied upon. The Home Office should review their analysis on more up-to-date data.

Cost to consumers - The IA outlines that overall the cost to consumers of this policy will be around £1bn per year. This is a significant increase in consumer spending, estimated to account for a 0.2% rise in inflation. This additional cost to consumers will hit households already struggling to cope with stagnant wages and high food and fuel inflation. This will have an impact on the quality of life of those on lower incomes who will be paying more for alcohol as a percentage of their income than before. It could have the unintended consequence of pricing responsible consumers, on tight budgets, out of the market entirely.

Loss of own brand products – As highlighted above one of the casualties of MUP could be own brand alcohol products. By pushing the price of the market up artificially, the lower priced own brand products will find themselves competing with established premium products that have big marketing budgets. This could make own brand products unviable and lead to the removal of this entire range from the shelves. It could have a knock on effect for the stores that stock own brand products, as well as on UK based producers which will shed jobs because of the policy. There would also be considerable wastage, as the own brand products in stock will be unviable and it would not be possible to mark them down to clear them. This has not been calculated in the loss to the Treasury of income taxes and in the consequent increase in out of work benefits.

Affordability calculations – The issue of affordability is raised as a key factor in the strategy with the Home Office attempting to establish a direct link between price, purchasing, consumption and harm. Yet the IA fails to acknowledge that while alcohol is currently as affordable as it was in 2004 according to the index used in the Impact Assessment. Since then, alcohol consumption has reduced by 13% and this shows that attempting to make simplistic assumptions from this may produce inaccurate results.

There are also concerns that the Home Office has used off-trade sales data from 2008 to analyse the price distribution of alcohol sold in the off-trade, particularly as data from 2009 – 2011 is also available and paints a much more accurate picture of off-trade sales distribution²⁸. For example:

- In 2008 35% of cider was sold at under 20p per unit, this number is now just 19%
- In 2008 only 3% of all off-trade alcohol was sold at below 20p, it is now just 2%
- In 2008 16% of alcohol sold in the off-trade was below 30p, it is now just 7%

It is important that when analysing the impact of MUP on the trade that the Home Office uses accurate and up-to-date figures in order to inform its decision. By using old data the impact of MUP

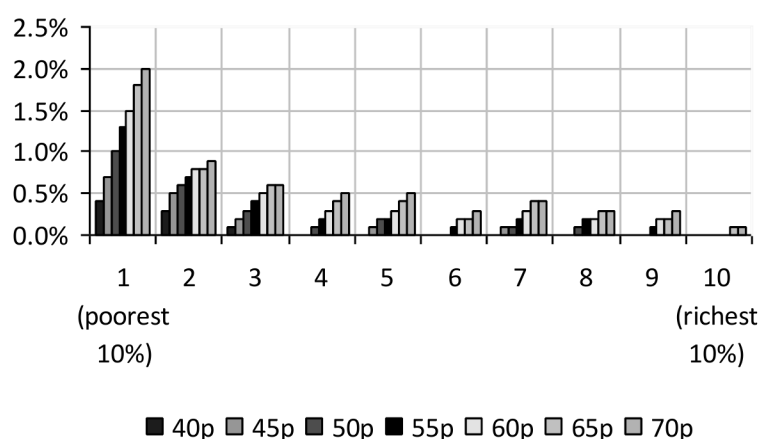
²⁸ Nielsen Sales Data for England and Wales, Monitoring and Evaluating Scotland's Alcohol Strategy Report (MESAS) 2011

will be skewed and therefore inaccurate. Before pressing ahead with MUP the Home Office should revise its impact estimates using the most recent data available to it.

Impact on Low income Households

The social impact section of the IA states that there will be no effect on low income households. However, there is little evidence to support this beyond the Sheffield Study, which is based on out of date 2006 data. Despite the claim that little has been done to assess the impact of MUP on income groups, there is significant research by the Centre for Economics and Business Research (CEBR) that does just that. The table below highlights analysis from the CEBR into MUP and the impact this will have on people in different income groups²⁹. The analysis shows:

- The burden of MUP at 40p will fall only on the poorest 30%;
- The burden of MUP at 50p will fall disproportionately on the lowest 10% who would see the cost of alcohol rise by the equivalent of 1% of their income, for the richest 70% it would not increase by any more than 0.2% of their income.
- Only at 65p or above will the burden of MUP fall on all income levels. At this level the minimum price for a bottle of wine would be £6.50, an increase of 34% on the current average;
- At a 70p MUP the cost of alcohol for the lowest 10% of earners would rise by the equivalent of 2% of their income. The top 70% of earners on the other hand would not face an increased burden of any more than 0.5% of their income;



Average increase in cost of alcohol as a share of average gross household income in England and Wales, as a result of minimum unit pricing for alcohol. Broken down by income deciles.

Compliance Costs

It is of concern that the Home Office has significantly underestimated the cost to business. On the Strategy's Impact Assessment³⁰, it has estimated that the cost of compliance will be, at the highest estimate, just £13.83 per licensee for familiarisation and just £100 per licenced premises for transition costs. When considering the range of changes that needs to be made in order to become compliant with MUP, this figure seems to be completely unrealistic. Some of the changes this measure requires for the UK wide trade includes:

1. Computer software across all stores being updated to allow calculations for Minimum Unit Pricing to take place;
2. Computer systems across all stores being updated to include safeguards against MUP sales;

²⁹ Analysis of the impact of Minimum Unit Pricing by the Centre for Economics and Business Research (CEBR), March 2012

³⁰ Home Office, Alcohol Strategy, Business & Regulatory Impact Assessment of Minimum Unit Pricing

3. Pricing and promotional activity for all alcohol products reviewed to assess MUP level for each product;
4. Each new alcohol product assessed for its minimum unit price before going on sale;
5. Store management and autonomy would have to reassessed and potentially redesigned;
6. Training would need to be provided to all marketing and promotional departments centrally;
7. Training would need to be provided to all licensees on the calculation of MUP and the implementation of the policy;
8. All training manuals would have to be updated;
9. Product wastage because of delisting and inability to mark down due to MUP.

Estimates have already been given by one large retailer that it has cost it around £1m simply to understand what the impact of MUP will be on its systems and processes. It is anticipated the total cost to just one national retailer would be over £3m. Therefore it is highly unlikely that the entire trade and over 134,000 off-licenced premises will be able to become MUP compliant for just £14.1m as estimated in the Impact Assessment, as this is just £100 per premises.

Before moving ahead with Minimum Unit Pricing the Home Office should look to gather a much more accurate understanding of the impact of the measure by visiting retailers to get a better understanding of the difficulty and costs associated with this type of restriction. The WSTA would be happy to facilitate this work through its members.

Movement from off to on-trade

The Home Office again uses the out-dated Sheffield model to predict that a rise in off-trade prices will lead to a correlation in the rise in on-trade sales. It is assuming an increase of around 3% in on-trade sales; yet at 45p per unit products continue to be much more affordable in the off-trade. Given the nature of the 2 business models there will always be a price differential between the on and the off-trade. However, there is little evidence provided to support the argument that price is the only factor in people's consumption habits. The decline in On-trade drinking has resulted as much from a culture shift away from the traditional pub model. The Joseph Rowntree Foundation research has shown, for example, that price is only one aspect of the decision to drink at home. Additional influences include being able to have a drink while preparing to go out and being able to socialise better away from a noisy pub or club.³¹

Illegal trade and fraud

The Home Office has made little or no assessment of the impact of increasing the cost of alcohol on a number of factors, including retail theft, alcohol duty fraud, fake alcohol products, the sale of home brewed alcohol and the white van trade. However, there is a real risk that price rises for alcohol will increase this activity. There is already evidence that retail theft is on the rise and retailers have to invest more in CCTV and bottle tagging in order to combat it.

The cross channel trade at its height accounted for 13% of all alcohol in the UK at a considerable cost to the Treasury. This also means that more alcohol is being sold outside the control of a responsible retailer such as a supermarket, which has adopted Challenge 25 and that sale is not governed by other responsible retailing initiatives.

Illicit factories (such as the one in Boston, Lincolnshire that exploded killing 5 people) have no regard for health and safety measures or responsible production, and the products they produce can cause significant health harms. The continued increase in retail prices of alcohol could make these ventures more appealing with a consequent loss to the Treasury in taxes. We would like to see

³¹ Young people and alcohol: influences on how they drink, Peter Seaman and Theresa Ikegwuonu, December 2010

further analysis by the Home Office and HMRC on the real impact of MUP taking these issues into account.

Net Effect

It is important to highlight that even with the underestimated costs to business and overestimated benefits to society the net effect to society is only calculated at £352m or around £35m per year. This has to be seen in the context of the estimated £200m loss to the Treasury; £1bn extra cost per year to consumers; at least £10bn over the course of 10 years, as well as the £16bn direct taxation that the Treasury already takes through duty and VAT.

Multi Buy Promotions

Impact on consumption – it is important to note that there is no analysis on the expected impact this measure will have on sales, consumption or harm. The estimates made about a minimum unit price have already been shown to be flawed: they are simply not comparable to banning promotions based on multiple purchases. The evidence from Scotland has shown that this measure has very little impact on alcohol sales, let alone any impact on harm and therefore it is not possible to confidently estimate any level of societal benefit this policy will bring.³²

Cost of Compliance - As with MUP, the cost of compliance for the ban on multi-buys has been considerably underestimated by the Home Office. There are significant costs associated with the implementation of new software, computer systems, training practices and on-going monitoring to ensure compliance. The ban would also bring on-going costs to retailers, as this regulation will continuously need to be monitored. While the Home Office has said that this measure will just become part of a retailer's compliance systems, and therefore not include additional costs, the reality is that this is an additional regulation on top of current practice, and it will take additional resources to manage. To suggest that the familiarisation with this policy will only be around 30 minutes to an hour is also completely unrealistic. There are significant complexities in understanding which deals do and do not fall into this ban, and therefore retailers will need training and will need to put processes in place in order to ensure compliance.

Further impact – it is of concern that the Home Office has not made any calculation in the impact this will have on businesses, consumers or the Treasury. If this does reduce consumption it means that retailers will have had lower sales. This impacts every level of the supply chain including on jobs and growth for retailers themselves, and for producers through lower orders. Additionally, any reduction in sales will also have a knock on effect on losses to the Treasury through a reduced tax take.

Overall impact – There is little evidence to suggest that this policy will have any impact on alcohol related harm, particularly as its relationship to reduce alcohol sales is tenuous. It is therefore likely this will simply add a significant burden to businesses, at the expense of jobs and growth, and will do nothing to tackle the minority that drink irresponsibly. It is likely that this will result simply in a net cost to business.

Also it should be noted that if you believe that multi-buy promotions themselves encourage increased consumption and this directly leads to harm, then it makes little sense only to apply this to the off-trade. If you believe in this as a principle then it should surely apply to all alcohol sold.

Review of the mandatory code

The Home Office has yet to release any impact assessment on the mandatory code as the proposals are yet to be worked up in detail. However, it is important to highlight that this review is also likely

³² Monitoring and Evaluating Scotland's Alcohol Strategy (MESAS), Preliminary descriptive analysis of the impact of the quantity discount ban on off-trade alcohol sales in Scotland June 2012

to come at a cost to business, on top of the costs of the other proposed measures. This will include having to retrain staff and to change the way they work to comply with the new regulations. As far as possible the Home Office should consider introducing any new measures simultaneously to limit the need to retrain staff and change systems which would otherwise be an additional burden if change was introduced piecemeal.

Health as a licensing objective for Cumulative impact Policies

Economic Impact - In the Impact Assessment, the Home Office has made a calculation about the Economic impact of Health as a licensing objective for CIPs through estimating the number of rejected licence applications. This estimate is based on the level of alcohol sold in the UK divided by the number of premises. What it does not take into account is the loss of revenue additional to the loss of the alcoholic products. Pubs and other on licenced premises have further income streams through the provision of food or entertainment. In the off-trade, alcohol only accounts for a small proportion of goods sold and therefore the knock on effect is even greater. This assessment also does not take into account the loss of investment into inner city areas, which helps to encourage further investment and help to create jobs. Therefore the economic loss of this policy is much bigger than its impact on just alcohol sales and is likely to be much greater than anticipated. The Home Office should look to rework this assessment to take into account the true cost to business this proposal has.

Compliance costs - Again, the cost of compliance for this proposed policy is likely to have been significantly understated. One of the impacts of health as a licensing objective in Scotland has been the uncertainty that it creates when deciding whether to grant a licence. This has led to an increase in court cases to establish the validity of rejections, and each time a case like this arises stores need to take legal advice on whether to proceed. This again increases costs and burdens on business that do not currently exist and will have an impact on a business's growth and jobs.

Furthermore when considering whether to invest in licensing areas, organisations will have to consider the CIPs and the potential the health harms which are almost impossible to calculate. This creates uncertainty and unpredictability for businesses that have to consider the cost of applying and being rejected, the cost of challenging this and going to court and the cost benefit to the business.

Removing red tape

Motorway Service Stations – We agree that there should be minimum additional bureaucracy with allowing motorway service stations to sell alcohol.

Newspaper advertising – We agree that the removal of the need to advertise licences applications in the newspaper will bring a substantial benefit to the trade as well as local authorities.

Renewal of licences – We agree that there is a benefit to both licence holders and local authorities in not having to renew personal licences every 10 years.

Section 7 Recommendations

The WSTA understands its role in working in partnership with Government and others to offer solutions to tackle these issues. Our suggestions for alternative measures include:

1. **Below Cost Selling** – Rather than focus on Minimum Unit Pricing, the Government should reconsider its position on the ban on below cost selling at the level of duty plus VAT. This would deal with the worst cases of deeply discounted alcohol without impacting on the majority of responsible drinkers as would MUP.
2. **Proxy purchasing** – While retailers are taking measures to tackle proxy purchasing, it is almost impossible for them to deal with if it takes place within the home. The Retail of Alcohol Standards Group has been looking at ways to support retailers affected by the issue. However, more could be done if the Government, the trade and enforcers worked to develop new solutions.
3. **Underage sales** – A licensing condition could be added, either to the age verification condition, or as a standalone condition that ensures licensees are trained to understand the legality and dangers of underage sales and proxy purchasing and how to handle it in store. Work could be done with the trade to develop appropriate and workable wording for the condition.
4. **Enforcing existing laws** – Laws already in place are not being used in the most effective way. Laws to prevent retailers serving to a person who is drunk should be properly enforced to prevent excessive drinking. In 2011 there were only 78 penalty notices and just 5 convictions for this. Additional laws already in place include the fine for persistently selling to children and powers exist to close premises and review licences.
5. **Continuing commitment to the Responsibility Deal** – The deal has seen the introduction of pledges around underage drinking, labelling, promoting alcohol information and removing 1bn units from the market. The Government should offer to drop the alcohol strategy proposals and instead focus on the work that is being done as part of the alcohol network. For example, doubling the unit pledge to remove 2bn units would reduce alcohol consumption by more than has been estimated for MUP.
6. **Incentivising responsible retailing** – With the implementation of full cost recovery of licence fees, the trade will shoulder the entire cost of administering the licensing regime. One of the anomalies of the fee system is that the cost of irresponsible retailers, through enforcement and licensing authority resources, is paid for by all retailers. As suggested above, a system of discounts which incentivises high standards and encourages quicker applications should be considered in the licence fee system.
7. **Anti-Social Behaviour Bill** – The measures in the strategy almost entirely focus on restricting retailers while doing nothing to challenge those that drink irresponsibly. The Anti-social Behaviour Bill is currently going through Parliament and this gives the Home Office the opportunity to develop proposals that deal with those committing alcohol related anti-social behaviour.
8. **Invest in education** – Each of the measures in the consultation look to deal with the supply of alcohol, but very little is set out to help reduce the demand for alcohol. Educational programmes, which target young people and their parents, have proven effective in helping to reduce the demand for alcohol by young people. The Government should ensure that alcohol education is part of the school curriculum.
9. **Partnership Working** – The Community Alcohol Partnership model shows that partnership working can have a significant impact on reducing underage sales. This ensures that retailers are treated as part of the solution, rather than just part of the problem. A relatively simple proposal that the Home Office could implement is to ensure that grant funding to help combat alcohol related crime and harm is only given to projects that encourage partnership between local authorities, police stakeholders and the local trade..
10. **Alcohol Brief Interventions** - Policies targeted at problem drinkers will have far more impact than general price hikes. Greater investment in Alcohol Brief Interventions and screening programmes will help Government to target its resources at those who need it most.
11. **Tackle alcohol duty fraud and illegal sales** – There is significant scope for the Home Office along with HMRC, the police, local authorities and the trade to work together in order to help reduce the illegal production and sale of alcohol, duty fraud and retail theft. Work on this could benefit all stakeholders and help combat a series of illegal behaviours related to alcohol.

Current Industry-led initiatives

Industry led initiatives that are already having a real impact on reducing irresponsible drinking, alcohol related crime and underage sales include:

- **The Public Health Responsibility Deal.** The seven collective alcohol pledges set out the UK alcohol industry's voluntary commitments to help people to drink sensibly. These range from providing health information on the majority of alcohol product labels to further development of community initiatives to tackle alcohol-related issues. Recently it has been reported that retailers are on track to deliver their pledge of having **health information labels on 80% of products on shelf.**
- **Community Alcohol Partnerships** bring together local retailers, trading standards, schools and police to tackle the problem of underage drinking and associated anti-social behaviour in communities. They link alcohol education, enforce measures and partnership working to tackle the demand and supply side of underage drinking. There are now 36 operational CAP schemes across the UK, with plans in place to expand their role and scope. **The schemes reduced alcohol related ASB in Barnsley by 30% and in Durham by 37%.**
- **Challenge 25** is a strategy developed by the industry that encourages anyone buying alcohol that looks under 25 to carry acceptable ID and is now widely used on our high streets. It has proved to be an effective tool to tackle underage purchases and has helped see a **reduction in test purchasing failures in supermarkets from 50% before its introduction to 19% in 2012.**
- **The Portman Group** is the social responsibility body for alcohol producers. It operates a strict Code of Practice to ensure alcohol is marketed responsibly and not in a way that might appeal to children. This Code applies to all pre-packaged alcohol sold or marketed in the UK. Since the Portman Group was set up in 1989, **it has banned over 80 irresponsible products in co-operation with retailers.**
- **Drinkaware** is an independent charity supported by voluntary donations from across the drinks industry to equip people with the knowledge to make decisions about how much they drink. It provides accessible, evidence-based information about alcohol and its effects to employers, young people, teachers, parents and community workers. Using a range of media, such as film, multimedia and TV, it helps dispel myths and present the honest facts about alcohol. **In 2011 Drinkaware had over 2.8m individual visitors to its website.**
- **Best Bar None (BBN)** is a national award scheme supported by the Home Office and aimed at promoting responsible management and operation of alcohol licensed premises. Piloted in Manchester in 2003, **it has since been adopted by 100 towns and cities across the UK** and is now being taken up internationally.
- **The Proof of Age Standards Scheme (PASS)** is the industry-led national proof of age accreditation scheme, endorsed by the Home Office, the Association of Chief Police Officers (ACPO) and the Trading Standards Institute (TSI). There are currently five national PASS-accredited card issuers and eleven locally issued PASS card schemes. **Over 5 million PASS cards have been issued since the scheme was set up in 2003.**
- **Purple Flag** aims to raise the standard of licences and broaden the appeal of centres at night time. The scheme, managed by the ATCM, is a partnership of key stakeholder groups, including central and local government, police, business and consumers. **Over 35 Purple Flags have been awarded to town centres across the UK**

ALCOHOL STRATEGY CONSULATION

**A consultation on delivering the Government's policies to cut
alcohol fuelled crime and anti-social behaviour**

SUBMISSION ON BEHALF OF

THE SCOTCH WHISKY ASSOCIATION



February 2013

1. Introduction

The Scotch Whisky Association (SWA) is the trade association with 50 members representing over 90% of the industry; members include distillers, blenders, and bottlers.

Scotch Whisky, the only alcohol drink sector that must be made in the UK, accounts for nearly 25% of the UK's total food and drink exports. Export figures for 2011 show that Scotch Whisky earns £134 every second for the UK balance of payments. The value of exports in 2011 was £4.2 billion, an increase of 23% on 2010.

This consultation takes place as alcohol consumption in the UK has been falling since 2004; a reduction of almost 13%¹. The majority of men and women drink within weekly guidelines (76% of men and 83% of women)². In relation to young people (11-15 year olds), there have been improvements. In 2010, 45% of pupils said they had consumed alcohol at least once. This continues a downward trend since 2003 when the figure was 61%. In 2010, 13% of pupils had consumed alcohol in the last week; the figure was double at 26% in 2001³.

Working in partnership is fundamental to tackling alcohol misuse, coupled with improved education and better and consistent enforcement of existing laws. The SWA is committed to playing its role. The Responsibility Deal has been in place for a little under two years, yet some significant pledges have been made, with a clear timetable for delivery.

Experience from Scotland has shown the benefits of rolling out a national alcohol brief intervention programme. Alcohol-related harms are on the decrease in Scotland, which has been achieved without the introduction of minimum unit pricing (MUP).

The SWA has put forward an alternative to MUP, a ban on sales below cost based on excise tax plus VAT. Such a measure is legal and not trade distorting

We have restricted our response to those questions of relevance to our members.

2. Consultation Questions

The Government wants to ensure that the chosen minimum unit price level is targeted and proportionate, whilst achieving a significant reduction of harm.

Consultation Question 1:

Do you agree that this MUP level would achieve these aims?

We do not believe that Government or its commissioned research from Sheffield University establishes the case for MUP. There is no evidence that it will effectively tackle alcohol misuse. The Government's own impact assessment makes clear it will not deliver a number of the desired and stated policy outcomes in terms of binge drinking in the 18 -24 age group and tackling alcohol-related crime.

It is worth noting the Australian National Preventive Health Agency (ANPHA) after conducting an extensive review of the evidence and consulting widely recommended that MUP should not be introduced.⁴

¹ BBPA, New figures show UK alcohol consumption down again in 2011, 11 March 2012

² Statistics on Alcohol England, 2012

³ Ibid

⁴ Exploring the Public Interest CASE FPR A Minimum (Floor) Price for Alcohol, Draft Report, November 2012, ANPHA

The European Court of Justice (ECJ) has invariably ruled that minimum pricing is illegal. It will also cause a number of negative unintended consequences.

Minimum pricing will fundamentally damage the Scotch Whisky industry at home, through a significant distortion of the market, and abroad where the introduction of copycat measures based on a spurious health justified trade barriers will impact exports. This will have negative consequences for the wider economy. The industry believes minimum pricing to be the most serious threat to its future international competitiveness.

For these reasons, ineffectiveness, illegality and long term harm to UK business the SWA is opposed to minimum unit pricing (MUP) on principle.

Effectiveness

The case for minimum pricing relies heavily on the Government commissioned 'Sheffield' modelling. The Scottish Government also commissioned Sheffield to model MUP. It has been updated twice and on each up-date the predicted effectiveness of MUP was diminished.

It is a matter of concern that when researchers have asked for the data on which the 'Sheffield' model is based, it has not been provided⁵. It follows that its model predictions have little credibility.

The UK Government Impact Assessment based on figures from Sheffield (table 3) show those drinking most heavily would have to spend less than the price of one pint of beer a week more if MUP was introduced. These drinkers are the least likely to change their drinking patterns and behaviour.

The Sheffield report has three categories of drinker - moderate, hazardous and harmful. The report assesses moderate consumers as drinking on average 6 units per week. This does not reflect government weekly drinking guidelines, which are 21 units for men, 14 units for women. All drinkers within a category are assumed to hold the same characteristics. No assessment is made for gender, ethnicity, social and economic grouping or different drinking patterns. It is assumed that all hazardous and harmful drinkers buy on price alone, which is clearly not the case.

There is no strong evidence as to the effectiveness of minimum pricing as a policy to reduce alcohol-related harm⁶. Claims that MUP is a targeted measure having greatest impact on problem drinkers with limited impact on moderate drinkers have been rejected by the Institute for Fiscal Studies⁷ report finding that MUP will hit responsible drinkers and, in particular, those on lower incomes at a time when household budgets are already under extreme pressure.

Although the Sheffield modelling work shows precise numbers on a range of potential impacts, nowhere does it state the reduction in the actual number of hazardous and harmful drinkers that would be achieved. In fact the proportion of hazardous and harmful drinkers would appear to remain unchanged. Therefore the Government's declared outcome of a reduction in the number adults drinking above the sensible drinking guidelines is not delivered.

⁵ Alcohol consumption patterns and trends in alcohol-related harms. CEBR , January 2013

⁶ Babor et al, Alcohol: No Ordinary Commodity, 2nd Edition, Oxford University Press 2010.

⁷ Alcohol Pricing and Taxation Policies, IFS Briefing Note NB 124, 2011

The margin for error by Sheffield statistician is wide. In a recent programme for the BBC's Panorama, Sheffield researchers claimed that minimum pricing in England and Wales would save the lives of 50,000 pensioners. It subsequently emerged that there had been an error by Sheffield, which revised its calculation, claiming 11,500 lives would be saved.

The Sheffield modelling suggested there would be a reduction in harms as a result of consumption within one year of MUP being introduced. Consumption has been decreasing in the UK since 2004, but we have seen an increase in alcohol-related hospital admissions and little change in alcohol-related deaths in England. The model therefore does not appear to reflect the real world.

A report from CEBR⁸ looking at trends in alcohol consumption patterns and trends in alcohol-related harms compared to predictions made by the Sheffield model appears to confirm this. The CEBR report concluded:

'.. that the significant reductions in aggregate alcohol consumption observed over the past 4 years have occurred in the absence of any minimum unit pricing policy for alcohol. But the fact that neither alcohol-attributable deaths, hospital admissions nor crimes has moved in the manner expected in response to this overall reduction in consumption also casts doubt over the capability of the Sheffield model to properly predict the relationships between alcohol-related harms and alcohol consumption.'

A recent report from the Adam Smith Institute has also strongly criticised the Sheffield model. The report argues that the model is based on unreasonable assumptions which render its figures meaningless. It concludes 'predictions based on the Sheffield Alcohol Policy Model are entirely speculative and do not deserve the exalted status they have been afforded in the policy debate.' A copy of the report can be found at the link below:

<http://www.adamsmith.org/research/reports/the-minimal-evidence-for-minimum-pricing>

In relation to binge drinking in younger people 18-24 year olds, Sheffield researchers in evidence to the Scottish Parliament confirmed MUP will have less impact on this group and the model does not address binge drinking⁹. This point is acknowledged in the Government's Impact Assessment even though the thrust of the Government's strategy is to tackle drink fuelled crime and anti-social behaviour in the night time economy.

The MUP policy is thus being advanced on flawed claims, in contradiction to real world experience and in pursuit of an objective the Government admits the policy will not deliver.

Legality

The SWA has consistently raised concerns over the legality of introducing a minimum pricing regime which have never been addressed, despite the clear jurisprudence of the European Court of Justice against MUP over the past 30 years.

From responses provided in Parliament the UK Government clearly has legal advice questioning the legality of MUP. Evidence given by Anne Milton, Public Health Minister, to the Commons Science and Technology Committee stated that the UK Government has legal advice which indicates that MUP is 'probably illegal'. Chloe Smith, Chief Economic Secretary to the Treasury

⁸ Alcohol consumption patterns and trends in alcohol-related harms. CEBR , January 2013

⁹ Health and Sports Committee, Stage 1 report , March 2012

stated in debate on 14 December 2011 in relation to minimum unit pricing 'we believe that it could be incompatible with article 34 of the Treaty of the Functioning of the European Union.'

In a letter dated 19 March 2012 from BIS to the Deputy Prime Minister the Government's own lawyers, including the Attorney General, advised that MUP is probably illegal. The letter also stated it was likely to be ineffective.

A legal opinion on minimum pricing¹⁰ for the Swiss Government clearly states that minimum pricing would breach its EU/EEA obligations and that a health exemption would not be likely to succeed. Even campaigners for minimum pricing have written they are not convinced of the legality¹¹.

Minimum pricing is a barrier to the free movement of goods. The SWA believes that it is likely to breach the EU Treaty (Article 34) and World Trade Organisation rules (GATT Art.III).

Under the EU technical notification procedure (Directive 98/34/EC) the Scottish Government via the UK, being the EU Member State, notified the draft Alcohol (Minimum Price Per Unit) (Scotland) Order which would have set a MUP of 50p in Scotland. The European Commission and five other EU Member States submitted detailed opinions opposing the measure. The European Commission's detailed opinion is available at the following web link:

http://www.eurocare.org/library/updates/european_commission_asks_uk_to_abstain_from_introducing_minimum_pricing

All price fixing measures distort the market. We believe MUP will significantly distort the UK market.

The European Commission considers there are other less trade restrictive measures to achieve the policy objective. It concludes the measure may create obstacles to the free movement of goods within the EU internal market contrary to Article 34 and appears to be disproportionate under Article 36 of the Treaty on the Functioning of the European Union (TFEU) and requests the UK authorities to abstain from adopting the draft legislation.

The SWA has taken action in the Scottish Courts in conjunction with spiritsEUROPE and Comite Vins in relation to the Scottish Government's legislation to introduce a MUP of 50p. A petition for judicial review has been filed on the grounds the legislation is in breach of the UK's EU Treaty obligations as it would restrain trade.

It is also argued that MUP is in contravention of the Common Agricultural Policy. Products subject to CAP, such as, wine, cider and perry, place sole competence with the Commission. Member States only having limited powers to legislate, with no power to fix price. MUP is clearly such a price fixing measure. If MUP cannot be applied to wine, cider and perry it would be disproportionate and unfair if applied only to other alcoholic beverages.

The UK Government are respondents in the legal case in Scotland, which was held at the end of January. A ruling is not expected for a number of months. Given it is the UK that would be

¹⁰ Prof Dr A. Epiney et al, On the Compatibility of a Legal Minimum Price for Alcohol with the Free Trade Agreement Switzerland-EU and Economic Freedom. Legal Opinion on Behalf of the Swiss Alcohol Board, October 2009

¹¹ B Baumberg, P Anderson, Health, Alcohol and EU law. European Journal of Public Health, Vol. 18, No. 4, 392 -298

in breach of the Treaty of the Functioning of the European Union (TFEU) in the event the Court follows the well-established ECJ precedent we would urge that MUP is not advanced while the legal processes, including any appeals, are on-going.

Consultation Question 2:

Should other factors or evidence be considered when setting a minimum unit price for alcohol?

We note the Impact Assessment makes clear there is uncertainty on how consumers and the industry will respond, which suggests to us that not enough evidence is available to make a full and accurate assessment.

Legality of the measure is clearly an issue that requires to be fully assessed before any further action is taken.

A comprehensive assessment of unintended consequences would appear to be lacking. There requires to be proper consideration of the impact of minimum pricing on cross-border sales, illicit supply, organised crime and fraud. These issues are not addressed in the Sheffield Report.

Markets with over stringent control policies see a greater incidence of fraud, illicit sales, cross-border shopping and increased use Internet sales all of which could see the Government's strategy outcomes being undermined.

Consultation Question 3:

How do you think the level of minimum unit price set by the Government should be adjusted over time?

We would be opposed to an automatic increase mechanism.

A comprehensive assessment of MUP would be required to be conducted covering a full range of data sources considering the impact on consumers and the market. This could only be justified a number of years after the measure had been introduced.

Any assessment should be required to ascertain the specific impact, if any, of this particular measure. At a time when consumption is already on a downward trend we would need to understand how any changes would be attributable to MUP before any decision to amend was made.

Any change to the level of MUP should be fully consulted on and subject to a debate and vote in Parliament.

Consultation Question 4:

The aim of minimum unit pricing is to reduce the consumption of harmful and hazardous drinkers, while minimising the impact on responsible drinkers. Do you think that there are any other people, organisations or groups that could be particularly affected by a minimum unit price for alcohol?

Moderate, hazardous and harmful drinkers are treated as if they all have the same characteristics and act in the same way. There is no assessment of gender, ethnicity, socio-economic grouping on the impact of these groups' drinking patterns. There would appear to be

an assumption that hazardous and harmful drinkers solely purchase alcohol on the basis of price. However, that is not the case. Many other factors impact on a consumers' choice of product - taste, preference, convenience.

The impact on low income groups requires to be assessed fully. The Impact Assessment notes the Government is to undertake further work to assess the impact on low income consumers. This should be conducted urgently. The Institute for Fiscal Studies found that MUP will hit responsible drinkers and, in particular, those on lower incomes at a time when household budgets are already under extreme pressure. This is supported by further research conducted by CEBR¹², which also showed that certain regions would be more impacted than others as a result of incomes being lower in those parts of the country.

The Impact Assessment also confirms that reduced consumption is less for high income groups although we know that those income groups are more likely to exceed the sensible drinking guidelines.

Producers of own-label and value brands will clearly be impacted by this measure. The sustainability of such companies would be put at risk with subsequent consequences on employee numbers and the wider supply chain.

Consultation Question 5:

Do you think there should be a ban on multi-buy promotions involving alcohol in the off-trade?

Scotch Whisky brands are not widely offered through multi-buy promotions.

The House of Commons Health Committee enquiry into the Government's Alcohol Strategy concluded on the issue of multi-buys that on the evidence the Committee was not convinced that a ban on multi-buys would be either desirable or workable.

A ban on multi-buy discounts as described in the Home Office consultation was introduced into Scotland on 1 October 2011. A preliminary analysis has been conducted under the Monitoring and Evaluation Scotland's Alcohol Strategy (MESAS) programme on the impact of the measure. It found no obvious change in weekly trends of off-trade sales in Scotland compared with trends in the previous year or in England and Wales. When aggregated across a 33-week post-ban period there was a small reduction in volume compared to the previous year. However, there was also a reduction in off-sales in England & Wales over the same period even though no ban was in place.

Consultation Question 6:

Are there any further offers which should be included in a ban on multi-buy promotions?

No.

The Scottish Government considered this issue in detail during the development of the Alcohol Etc (Scotland) Bill which introduced a ban on multi-buys which the UK Government are now considering.

¹² Minimum Unit Pricing: Impacts on consumer spending and distributional consequences. CEBR December 2012.

Multi-buys are used across a range of consumer goods. Has the Government conducted an analysis on whether such offers have increased sale of such other categories of product?

Consultation Question 7:

Should other factors or evidence be considered when considering a ban on multi-buy promotions?

Evidence from the Scottish experience showing no significant impact of such a ban should be carefully considered before taking these proposals any further.

Consultation Question 8:

The aim of a ban on multi-buy promotions is to stop promotions that encourage people to buy more than they otherwise would, helping people to be aware of how much they drink, and to tackle irresponsible alcohol sales. Do you think that there are any other groups that could be particularly affected by a ban on multi-buy promotions?

Producers of multi-packs may be required to supply different pack sizes leading to operational inefficiencies.

Consultation Question 9:

Do you think each of the mandatory licensing conditions is effective in promoting the licensing objectives (crime prevention / public safety / public nuisance / prevention of harm to children)?

The Government has not presented any evidence as part of the consultation on this particular issue.

Consultation Question 10:

Do you think that the mandatory licensing conditions do enough to target irresponsible promotions in pubs and clubs?

Yes.

We consider they tackle the most irresponsible promotions.

Consultation Question 11:

Are there other issues related to the licensing objectives (prevention of crime and disorder / public safety / prevention of public nuisance / protection of children from harm) which could be tackled through a mandatory licensing condition?

Training of staff is an important issue. Whilst it must be recognised that responsible retailers ensure the training of their staff, a mandatory condition would be for all retailers to be able to demonstrate that their staff have been appropriately trained in the relevant aspects of the licensing regime if challenged.

Consultation Question 12:

Do you think the current approach, with five mandatory licensing conditions applying to the on-trade and only one of those to the off-trade is appropriate?

It is important to recognise the inherent difference between the on and off-trade. A consumer in the on-trade is purchasing alcohol to consume at that point. They have taken the decision that they are going to consume alcohol at the time of purchase. The consumer purchasing in the off-trade may not be the person who ultimately consumes the alcoholic product. Consumption can take place some considerable time after purchase.

We therefore do not consider the current approach as being inappropriate.

Consultation Question 13:

What sources of evidence on alcohol-related health harm could be used to support the introduction of a cumulative impact policy (CIP) if it were possible for a CIP to include consideration of health?

Protecting and improving public health is a licensing objective under the Scotland (Licensing) Act 2005, which came into force on 1 September 2009. The experience from Scotland would appear to suggest the public health objectives are poorly understood and that Licensing Boards have been struggling with the issue since its introduction.

As we understand the proposal being put forward in the consultation, it is to include a health related objective for those areas subject to a cumulative impact. In Scotland no licensing objective takes precedence over any other and this is an important principle to maintain.

Alcohol-related health harms can be both acute and chronic. We also know that people that live in areas of greater deprivation suffer from greater levels of alcohol-related harms. The reason for this being multifactorial. Whilst it may be possible to use data from A&E admissions, this would in the main relate to acute harms. However, we would question whether there was adequate and robust health data to relate to a specific licensed premise or number of premises in a specific area in relation to chronic health harms.

Also, if the cumulative impact related to an area where a large number of people visit to enjoy the night time economy, they may live some distance from that area and within the catchment of a different hospital.

Consultation Question 34:

Do you think that the Impact Assessments related to the consultation provide an accurate representation of the costs and benefits of the proposals?

We have only reviewed the Impact Assessments for MUP and a ban on multi-buy promotions. We consider the impact assessment to be significantly lacking in a number of areas.

We are disappointed our input was not sought when the impact assessments were being prepared.

Consultation Question 35:

Do you have any comments on the methodologies or assumptions used in the impact assessments? If so please detail them, referencing clearly the impact assessment and page to which you refer.

MUP

Page 3 Government Alcohol Strategy

The strategy states the Government wish to reduce the availability of cheap alcohol. MUP sets a floor price for alcoholic beverages; a ban on sales below tax based on duty plus VAT also sets a floor price.

If excise duty was set at the same rate across all alcoholic drinks, according to alcohol content, this could increase the revenue to the Treasury by £1 billion a year. The impact assessment estimates a decrease in receipts to the Treasury of £200 million.

A system of duty approximation between all drinks could easily be constructed, complying with EU rules. Duty on table wine must be applied at one rate within the band 8.5%-15% abv. It would be a simple calculation to set the rate at a mid-point (or at the average alcoholic strength of wine on the UK market) so that duty on wine at that strength, say 12.5% abv was approximated closely to the duty rate per degree of alcohol applied to other drinks.

Directive EC 92/83 requires the excise tax on wine and cider to be on the basis of volume of finished product. It does not mandate the methodology for choosing the rate to be applied. A rate could be chosen to reflect the typical alcohol content of the products concerned as long as the rate is then applied on the basis of bulk volume of the finished product.

Page 6: Link between alcohol price and harm

There is no link between price and harm. Real market evidence demonstrates the price link to be false. The RAND study for the European Commission shows countries across Europe where alcohol has become more affordable yet consumption has declined. There is no evidence to show that a can of beer at 4% abv sold at £1.00 is intrinsically more harmful than the same can sold at £1.20.

The price of alcohol in England and Scotland are the same, yet Scotland suffers from higher levels of alcohol-related harm. Also, consumption has been falling in England, but health harms, such as alcohol-related hospital admissions have been increasing.

Much of the evidence base presented is essentially that from Sheffield and the Canadian studies. We have set out our concerns regarding the Sheffield studies earlier in our submission, With reference to the Canadian studies mentioned; these studies only examine changes in levels of total alcohol consumption, not harm. They make no assessment as to whether there is a reduction in consumption of heavy drinkers or a reduction in the number of heavy drinkers.

An outcome the alcohol strategy is attempting to achieve is a reduction in the number adults drinking above the sensible drinking guidelines. Hazardous and harmful drinkers drink above these guidelines. However, the Impact Assessment gives no indication of the reduction in the numbers of hazardous and harmful consumers that would be achieved as a result of the introduction of MUP.

Page 7: Objectives

It states the policy objective is to reduce the availability of alcohol and reduce the consumption of harmful and hazardous consumers in particular.

MUP does not reduce the availability of alcohol, it does reduce accessibility for responsible drinkers on low incomes, whilst doing nothing to tackle the consumption of affluent hazardous and harmful consumers, who can increase spend to maintain their current level of consumption. The impact assessment does acknowledge the impact on low income consumers. MUP will affect affluent hazardous/harmful consumers, that affect is that they may simply choose to spend more. There is no evidence they will reduce consumption.

The concern regarding low income hazardous and harmful consumers is they dedicate more of their limited income to maintain consumption.

Page 7 Options

It states the proposed MUP of 45p has been selected as it will 'be proportionate and effective in reducing consumption'. We would again refer to the letter dated 19 March 2012 from BIS to the Deputy Prime Minister which queries whether MUP is proportionate and its effectiveness:

"We understand that work by the Cabinet Office Behavioural Insights team also indicates that the two groups the Government most wants to drink less are perhaps the least likely to change consumption levels in reaction to what will be a relatively small price increase. People determined to drink to excess will in all likelihood either simply carry the price increase or will slightly adjust the ratio of pre-loaded consumption (off sales purchase) and more expensive drinks bought in pubs and clubs. Problem drinkers - by dint of their alcohol dependency - will most likely continue to consume at their usual level, often forgoing other spending choices to do so, up to the point where they simply do not have the money to spend at all. Whilst the cost impact of MUP on mild to moderate drinkers is likely to be small MUP may still be perceived as an irritant."

The Sheffield model estimates a reduction in consumption of 3.3% at this level. If the Government is seeking a reduction in consumption of 3.3% we would note the unit reduction pledge under the Responsibility Deal is expected to reduce consumption by 2% and therefore perhaps there is scope to review this pledge to reach the 3.3% reduction, which is clearly a less trade distorting measure being delivered through voluntary industry action.

Page 15 Harmful and hazardous consumers

We note the reference to the review by Booth et al, which states there is some evidence that harmful consumers tend to show a preference for cheaper drinkers, which is only partially validated by Sheffield. Closer examination of those studies as summarised by Booth et al shows that they have no relevance to the UK context.

It is also interesting to note that the Booth review summarises the finding of Gallet (2007). Gallet was a meta-analysis covering 132 studies. According to the Booth review Gallet found that 'younger individuals are less responsive to price than older individuals and as teens are least responsive to price, reduction of teen alcohol consumption should examine alternatives to taxation e.g. education campaigns.'

We also note the point that hazardous 18-24 year old drinkers will be less impacted by MUP, even though they are an identified at risk group for the Government.

Page 15 Alcohol producers

The assessment of impact on producers is scant to say the least. Producers whose business model is based around supply of own-label and value brands, especially if their business is focused on supply the UK market, will be significantly impacted by the introduction of MUP. The sustainability of such businesses would be questionable with the ultimate impact on jobs.

Based on the work we did in relation to the impact of the introduction of MUP in Scotland for the draft Business & Regulatory Impact Assessment we estimated a loss of between 250- 400 jobs.

We are also concerned that international copycat action based on a 'health justified' trade restriction, which MUP is, will lead to a flurry of similarly justified, but spurious, measures in our export markets introduced for protectionist reasons which will ultimately impact our exports. Any reduction in sales overseas will have a significant impact on jobs across the UK supply chain given that Scotch Whisky exports represent 25% of total UK food and drink exports.

The impact assessment acknowledges there is expected to be an impact on international producers whose products are imported into England and Wales, particularly for those that produce low cost alcohol. This admission goes to the heart of whether this measure can be considered compatible under EU law and the free movement of goods. One of the aims the Government's Alcohol Strategy is to reduce the availability of cheap alcohol through introducing MUP. This will unfairly impact EU producers exporting to the English & Welsh market by disallowing them the advantage of their low cost base as it builds in a discriminatory and distortionary intent.

According to the impact assessment 66% of alcohol sold in the off trade is sold at less than 45p per unit, therefore a significant part of the market will be impacted by MUP.

The SWA through the judicial review in Scotland has made available to the UK Government an economic analysis of the impact of a 50p MUP on alcoholic beverages in the Scottish market conducted by Professor Yarrow, Chair of the Regulatory Policy Institute, Oxford. The report concludes that MUP will have adverse impacts on trade and competition. The analysis found that MUP would result in distortionary/discriminatory effects on producers supplying the Scottish market from the EU. It would have distortionary effects in terms of retail competition. It would impact entry to the market. It could also create greater incentives for retailers to sell more of the cheaper ranges as they will make higher margins and would incentivise retailers to allocate more resources to those products impacted by MUP.

As noted previously, the European Commission has issued a detailed opinion in response to the Scottish MUP legislation, which concluded the case for MUP was not justified under the public health objective and may present an obstacle to the free movement of goods. The Commission concluded there were less trade restrictive measures available to achieve the desired aim of the policy.

Page 20 Benefits to the alcohol industry as a whole

We would question how a possible increase in on-trade consumption would help deliver the strategy outcomes. Also, any additional profit that may result from an increase in price due to MUP will be retained by retailers and not shared with producers. It is also not clear why consumers spending more to drink at home are automatically assumed to switch to drinking in the pub. Recent societal trends suggest this is unlikely.

Page 21 Risk

Whilst recognising there is uncertainty in how the alcohol industry and consumers might respond to MUP, this section is very limited in the assessment of these risks. We hope there will be much more detailed consultation with the alcohol industry to discuss a number of these issues prior to any further work to update the Impact Assessment.

A key risk not included in this section of the impact assessment is the legality of MUP.

Multi-Buy

Page 4 states 'Annex A outlines in more detail the areas where public and technical consultation and research will strengthen this evidence base.' There is no annex A.

Page 7: The objective is to reduce overall consumption; however, this measure may result in consumer purchasing more alcohol in the on-trade thereby undermining the objective.

Page 10: The impact on the Exchequer requires to be more fully investigated.

Page 12, second paragraph, second sentence states that 'Retailers may decrease the price of single items to enable them to offer multi-buy packs at existing prices.' As the Impact Assessment states that assessment has been produced under the assumption that MUP is in place that action would not be possible.

Page 14, Risks, much more detailed assessment of the potential consequences of this measure requires to be conducted. Where is the evidence that supports the statement that loss-leading on alcohol means that moderate drinkers effectively subsidise heavy drinkers through the cost of their weekly shop?