

Alcohol Licensing Consultation

Respondent

Licensing councillor.

[Redacted]

On Behalf of

I am not responding on behalf of any corporate body.

[Redacted]

[Redacted]

Confidentiality

I see no reason to keep my comments confidential.

Impact of 45p Minimum Unit Price

I am a Chartered Statistician, and I have a Doctorate in Operational Research and Mathematical Statistics, entitled "Evaluation of Mental Health Services".

[Redacted]

It is important to note that most of the papers considered alcohol-pricing regimes considerably different to the extant UK system. In particular, the degree of price elasticity for alcohol sales may well depend on the current cost of alcohol with respect to the income distribution of consumers. (For example, if alcohol is very cheap, increasing the price may have a negligible impact on consumption; conversely if alcohol is already expensive, price increases may impact sales directly because heavy users may have no spare funds to maintain levels of consumption.)

Moreover, the coefficients in any pricing model will be highly dependent on economic factors. These factors may not be linear, or even continuous. I.e. there may well be discontinuities in the relationship between pricing and consumption. (Catastrophe Theory is normally used to model such relationships, and such models can be extremely difficult to calibrate.)

It would be easy to argue that the "Credit Crunch" in 2008 represents such a point of discontinuity.

Since the Sheffield University research quoted by the Home Office seems to predate the "Credit Crunch", I would therefore assign it only limited weight until revalidated.

Having said the above, it is clear that there is an inverse relationship between alcohol pricing and levels of consumption. (I.e. consumption generally goes down when prices go up.) The problem is that the relationship is not currently quantified (i.e. we do not now have a current, validated formula for predicting consumption for a given level of pricing.)

The impacts shown in the table on page 16 of the consultation document are therefore estimates. Moreover, they are estimates based on out of date data, mostly taken from incompatible pricing regimes. They should be treated as indicative and no more than that.

Question 1

I do not believe that any blanket MUP will achieve the desired goals for the following reasons:

- 1) Assuming that a pricing/consumption model exists and is correctly calibrated (a very questionable assumption – see above), it will be dependent on income distribution. This varies across the country, and therefore a blanket MUP must be either too high in low-income areas, or too low in high-income areas.
- 2) It will provide a very strong incentive for the market to find alternative distribution models. (E.g. alcohol brewing kits, smuggling, etc.) In general, charging high prices for addictive products usually leads to high profits for unsavoury organisations. Would the Mafia have ever become so strong in America if it hadn't been for Prohibition?
- 3) It runs the risk of making “binge” drinking even more “cool”, and thereby actually increasing consumption amongst the very groups that we wish to target.

Question 2

A workable MUP must take into account a myriad of factors, many of which vary according to locality and economic conditions. I would therefore suggest that if the government is minded to introduce a MUP, it should:

- 1) be left to local Licensing Authorities to set according to local circumstances.
- 2) be given a lower/upper range. E.g. 20p/60p.
- 3) allow a differential MUP for off-license sales versus sales for consumption on the licensed premises.

Question 3

The MUP should be adjusted annually. It should preferably be locally determined, and there should be an obligation on Licensing Authorities to revise their local MUP annually.

Question 4

A MUP will preferentially affect two groups:

- 1) heavy consumers of alcohol, and
- 2) those on very low incomes.

The first category is the target of the MUP strategy. Any impact on them will be advantageous.

The second category is the problem area. Sensible users of alcohol who are on low incomes will be hit. This can be ameliorated by having a lower MUP for sensible consumers, i.e. a lower MUP for pub sales.

Question 5

A ban on “multi-buy” promotions is unlikely to have the adverse effects of a MUP. E.g. it is hard to see how it will incentivise alternative (and undesirable) distribution routes (such as smuggling).

I can therefore see advantages to a ban on “multi-buy” promotions. However, I can see problems with enforcement. Clever lawyers will get very rich, very quickly, arguing in Court, as to whether a particular promotion is a “multi-buy”. E.g. how do you handle a sale that includes a voucher entitling the buyer to a special deal on the next purchase?

Overall, a ban on “multi-buy” promotions is probably worthwhile, but unlikely to be effective for more than a short period (until corporate lawyers start finding the loopholes).

Question 6

If a ban on “multi-buy” promotions is introduced, it is inevitable that further bans will be required to retain any modicum of effectiveness. (See answer to Question 5.)

In all probability, closing one loophole will only move sellers onto the next loophole. Constructing loophole-free legislation is almost impossible when there is a strong financial incentive to exploit such loopholes.

The only way that a “multi-buy” promotion ban could be made effective is to formulate it in terms of its effects. E.g. ban any contract to sell or supply alcohol that includes a financial incentive to make further or multiple sales.

Question 7

If the suggestion made in the final paragraph of the answer to Question 6 is adopted, then this question becomes moot.

Question 8

No successful retailer reduces the price of any product unless they expect to make an additional profit elsewhere. Specifically, the normal purpose of “multi-buy” promotions is to persuade buyers to buy more than they would otherwise, thereby earning profits for the supplier.

We can therefore conclude that under all normal circumstances, “multi-buy” alcohol promotions are aimed at increasing sales of alcohol beyond those planned by the purchaser. Thus, a ban on such promotions should have very limited impact on **planned** purchases.

It logically follows that a ban on “multi-buy” alcohol promotions would have only minimal effect on normal consumers of alcohol.

Question 9

a) Irresponsible Promotions

This contributes to the following Licensing Objectives:

- Public safety.
- Prevention of Public Nuisance

b) Dispensing Alcohol Directly into the Mouth

This contributes to the following Licensing Objectives:

- Public safety

- Prevention of Public Nuisance
- c) **Mandatory Provision of Free Tap Water**
This contributes to the following Licensing Objective:
 - Public safety
- d) **Age Verification Policy**
This contributes to the following Licensing Objective:
 - Protection of Children from Harm
- e) **Mandatory Provision of Small Measures**
This contributes to the following Licensing Objectives:
 - Public safety
 - Prevention of Public Nuisance

Question 10

I have heard anecdotally that irresponsible promotions still exist and have an undesirable impact on responsible alcohol consumption. However, it will probably prove very difficult to draft a condition that will cover all such promotions across the country.

It is probably better to leave such conditions for determination by the local Licensing Authority. (If necessary, the powers of the Licensing Authorities could be increased to allow this.)

Question 11

The Law was recently changed for the sale of tobacco. Specifically, the display and advertising of tobacco products by retailers was severely restricted. A comparable Mandatory Condition for off-trade alcohol sales should be considered.

A long-term goal of alcohol licensing should be to encourage sensible consumption of alcohol. This would be aided considerably if alcohol could be stripped of its “glamour”. This could, in turn, be helped by:

- 1) hiding alcohol products (in the same way as tobacco products) in any premises licensed for off-trade sales.
- 2) banning the display of material advertising alcohol products in any premises licensed for off-trade alcohol sales.

Question 12

I do not think that the current mandatory conditions are strong enough for off-trade sales. I have suggested an enhancement in the answer to Question 11.

Question 13

For health to be made a Licensing Objective, some form of CIP is essential. However, it seems very difficult in principle to sustain **any** CIP. Proving that 1 more of anything will be “the straw that breaks the camel’s back”, is almost impossible.

For a Licensing Authority to successfully use a CIP in determining an application, it requires a significant leap of faith.

The best chance of making CIPs (of any type) usable is to institute an arbitrary system for determining if there is cumulative impact. E.g. a fixed percentage (say 50%) of any 100 yard stretch of retail frontage.

The choice of percentage would be purely arbitrary. It would be extremely vulnerable to appeal if determined by the Licensing Authority. The solution would be to set the percentage by Regulation.

Question 14

I do think that amendment is necessary. For details, see the answer to Question 13.

Question 15

There is no possibility of removing an existing alcohol license on the basis of a CIP. It would therefore only have a potential impact on applications for new or extended licenses. However, trading conditions are currently very tight and likely to remain so for the next few years. Thus, the prospect of new pubs/clubs/etc being opened in competition with the existing traders is very low, or even negligible.

I therefore find it hard to imagine any circumstance under which a CIP would be invoked locally in the next few years. I therefore think that the impact of a CIP would be minimal in East Northamptonshire.

Question 16

I regard the 3 sub-questions as alternatives. (You cannot logically support more than one of the options.)

It is desirable (for the reasons stated) to exempt certain categories of premises from the requirement for licences to sell or supply alcohol. This seems to be well demonstrated, and should be accepted.

The remaining question is then to choose which establishments to exempt.

Any system of exemption is likely to generate loopholes and attempts to “game” the system. It therefore seems logical to implement a system that minimises the opportunities for “gaming” the system.

The best way of achieving this would seem to be to list all the exemptions allowed. (This minimises the opportunities for “creative interpretation” of rules.)

I would therefore recommend Option A to the exclusion of the other 2 options.

Question 17

All 5 categories listed seem eminently sensible.

Question 18

- a) Tailors, costumiers, and dressmakers.
- b) Art galleries and bookshops (possibly an extension to Category D)

Question 19

I think that Question 16, Options B+C are likely to be abused. I therefore do not support them.

Question 20

This is an awkward Question because it assumes that the respondent has already supported Options B or C in Question 16, (which I did not).

I will answer the Question as though it applied solely to Option A in Question 16.

The role of a Designated Premised Supervisor is to supervise the sale/supply of alcohol. It is his/her responsibility to ensure that the Licensing Objectives are properly supported.

In an establishment making “ancillary” alcohol sales, it is assumed that misuse of alcohol will not be a problem. Why else consider the introduction of such a category of alcohol supplier?

It therefore follows that the primary role of a DPS is redundant in such establishments. I therefore see no need for the operator of an establishment making “ancillary” alcohol sales to hold a personal license.

In this Question, therefore, I support Option C in preference to A or B. It would clearly reduce the regulatory burden on such establishments.

Question 21

I do not believe that any of the Options in this Question would have any negative impact on the Licensing Objectives.

The Licensing System is present to discourage misuse of alcohol and to encourage sensible, mature use of it. The ancillary uses of alcohol are clearly sensible and mature. Thus, the proposed relaxation of Licensing will encourage sensible and mature use of alcohol.

In fact, it is possible that the proposed changes may actually have a positive impact on the Licensing Objectives, by supporting and encouraging sensible and mature use of alcohol.

Question 22

A serious complication for organisations that stage infrequent events at which alcohol is sold/supplied is the notice period required for a Temporary Event Notice. For volunteer-run organisations, this is a serious problem because they lack the experienced staff, who know that they must apply for a TEN sufficiently early.

This could be addressed by allowing a much shorter notice period for organisations that have been “qualified”. Nobody would be allowed to object to such TENs. Qualification could be achieved by several possible methods. (E.g. an approved application to the Licensing Authority, or by having had a history of TENs which generated no complaints or other problems.)

A further issue is the cost of a TEN (currently £21). For very small organisations (like PTAs, mums-and-tots groups, etc), this is an excessive overhead. It almost guarantees that any meeting of less than 20 people will be financially non-viable

For such organisations, the TEN fee should be waived.

Question 23

Yes. See the answer to Question 22.

The notification process should allow very late TENs to be delivered, and should incur no fee.

Question 24

Neither the procedures described in the answer to Question 22, nor those proposed in paragraphs 9.13 and 9.14 would increase the burden on organisers of community events. In all probability, the procedures would significantly reduce the burdens on such groups.

Question 25

Increasing the maximum number of TENs per year per premises up to 15 or even 18 will probably have minimal impact, as very few premises ever reach those numbers. However, increasing the maximum to any higher figure would be risky.

Question 26

I see little difference between the effects of 15 and 18 in this context.

Question 27A & 27B

It is **always** best to delegate this sort of decision to the body closest to the impact of the decision. The local Licensing Authority is the public body closest to the community impacted by these decisions.

I therefore strongly support both these proposals.

Question 28

This seems obvious for two reasons:

- 1) Motorway service stations are not connected directly to the local community. Thus, there is little chance of users interacting with the local community, and causing any sort of local nuisance. (I.e. no “Public Nuisance”.)
- 2) It is far safer for late night, tired drivers to stop at a motorway service station for a break than to attempt to drive further. (I.e. enhanced “Public Safety”.)

Neither “Prevention of Crime”, nor “Protection of Children”, is affected by this issue.

Thus, overall, the proposed exemption will enhance the Licensing Objectives, and I therefore support it.

Question 29

Other premises that should have national exemption from the requirement for a license for supplying late night food to the public are:

- 1) airports
- 2) railway stations
- 3) bus stations (but not bus stops!)

Question 30A

Very few people read the local press nowadays, so removing this requirement will have minimal impact. Of much more importance will be ensuring that:

- 1) residents in the vicinity of the premises are notified of **both** the licence application **and** the schedule requested by the applicant.
- 2) the application is advertised on the Web, where it can be picked up by the Search Engines. In the future, they will be the primary method by which people are notified of developments that effect them.

Question 30B

This is delicate issue. The vast majority of customers of a motorway service station arrive by private car, and of those, the largest number drive themselves. Thus, deregulating the sale of alcohol at a motorway service station could be seen as encouraging drink-driving.

It would probably be relatively safe to allow sales of alcohol to users of overnight accommodation at service stations, but not for off-trade sales or for consumption in service station restaurants.

Question 30C

See answer to Question 30B.

Question 30D

Simplifying requirements for personal licenses is not a high priority. One change that **should** be considered concerns the procedure for removing a personal license.

At present, premises licences can be suspended or removed by the Licensing Authority. Appeal against such decisions is to the Magistrates Court.

However, personal licences can only be removed after conviction for certain offences. Simply being incompetent at the job of DPS is not a reason for removal of a personal licence. The Licensing Authority can remove the DPS of a licensed premises, but there is nothing to prevent the individual from being appointed as a DPS at another licensed premises.

There should be provision for a Licensing Authority to remove or suspend a personal licence in the same way as it can a premises licence. Obviously, such a suspension or removal would be subject to appeal to the Magistrates Court, just as it is for a premises licence.

Question 31A

This would reduce the burden on businesses.

Question 31B

This would slightly increase the burden on business, but it would be very unwise for other stronger reasons. (See answer to Question 30B.)

Question 31C

This would slightly increase the burden on business, but it would be more than balanced by encouraging addition commercial activity. Overall, this proposal would be of significant net benefit to the economy and society.

Question 31D

This does not effect business in any way, as it concerns **personal** licences.

Question 32A

This would increase very slightly the risk of Public Nuisance, as there is a very slight chance that a neighbour might fail to learn of an application for a premises licence. However, if Public Nuisance did subsequently result, there is still the opportunity to request a Review of Licence. Thus, overall, the risk of Public Nuisance created by the proposed reform is negligible.

It is hard to see any potential impact of this reform on the other Licensing Objectives.

Question 32B

This reform carries significant risks for Public Safety. Drivers attending a motorway service station cannot currently purchase alcohol. Removing this prohibition can **only** increase the probability of drivers buying and consuming alcohol before continuing their journeys.

Drink-driving is a proven killer, and should be discouraged.

Thus, this option will impact adversely on Public Safety.

Question 32C

This does not carry the risks of Option B.

Thus, I cannot see any risk of this Option impacting adversely on the Licensing Objectives.

Question 32D

I refer to the reform proposed in the answer to Question 30D.

If this reform is implemented, it would allow Licensing Authorities to stop incompetent personal licence holders from working as a DPS. This would have a positive impact on the Licensing Objectives.

The reforms proposed in paragraph 9.23 would have a neutral impact on the Licensing Objectives.

Question 33

- 1) The TEN reforms proposed in the answer to Questions 22 and 23..
- 2) Removing “dancing” from the category of regulated entertainment. There is no way that “dancing” can, on its own, adversely affect the Licensing Objectives. The only possible harm would come from the accompanying music, which is separately licensed.
- 3) Allowing bottles of alcohol to be offered as prizes in games of chance where no alcohol is sold on the premises.

Question 34A

No. Please see discussion above prior to the answer to Question 1.

Question 34B

Yes, the issues have been adequately discussed.

Question 34C

This is a very complex issue. It almost certainly needs further work, especially to:

- 1) bring it up-to-date
- 2) investigate the effect of prolonged Recession. (The big reduction in disposable incomes will inevitably change alcohol purchasing patterns.)

Question 34D

Yes, the issues have been adequately discussed.

Question 35E

Yes, the issues have been adequately discussed, in the consultation document and in the answers given above.

Question 34F

Yes, the issues have been adequately discussed.

Question 34G

Yes, the issues have been adequately discussed, in the consultation document and in the answers given above.

Question 34H

Yes, the issues have been adequately discussed, in the consultation document and in the answers given above.

Question 34I

Yes, the issues have been adequately discussed, in the consultation document and in the answers given above.

Question 35

I have specific comments on some of the methodologies. They are detailed earlier in this document, above the answer to Question 1.

