

# RESPONSE TO THE HOME OFFICE CONSULTATION 'DELIVERING THE GOVERNMENT'S POLICIES TO CUT ALCOHOL FUELLED CRIME AND ANTI-SOCIAL BEHAVIOUR' FROM THE NATIONAL ASSOCIATION OF CIDER MAKERS (NACM)

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## **INTRODUCTION**

The NACM<sup>1</sup> represents and promotes the interests of producers of cider and perry in England, Wales and Northern Ireland; and by implication the interests of cider apple growers and the rural communities in which this activity takes place. We appreciate the opportunity to comment on the consultation document.

## **CIDER INDUSTRY**

### **Profile**

The cider industry is characterised by its wide range of scale of production with three major producers, a handful of medium scale producers and a very long tail of very small scale producers with some perry and cider makers producing less than 70Hl per annum. Approximately 480 producers, in all, predominately based in rural communities in the South West of England and the three counties of Gloucester, Hereford and Worcester. Some 1,500 jobs are directly dependent on cider making supporting a further 2,500 rural/cider related jobs overall.

The principal raw material for making perry and cider is pears for perry and apples (both cider apples 'bitter sweets' and 'cull' dessert apples) for cider.

The UK cider industry relies on British grown apples to make its cider. Bitter sweet apples grown in the UK are needed to produce the distinctive characteristics of a British cider. Supplies of cider apples to the industry represent a long term commitment of growers and cider makers of about 30 years to cover the economic life of the trees (needing the first 7 years to break even). For its part the cider industry invests in research into the long term, sustainable future of apple growing in the UK. Because of these long time-lines growers need confidence in the cider market and stability on regulatory matters.

The source of the pears and apples for making perry and cider is from a wide variety of orchards, varying in scale from 2-3 trees to large orchards in England, Wales and Northern Ireland. Without the continued existence of the cider industry the UK's apple orchards would be reduced by more than 50%. The cider industry supports an orchard area of 7,000 hectares and the industry takes 51% of all the apples marketed.

Orchards play a highly significant and valuable role in rural communities as a source of 'utility' to the community and as tourist attractions.

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<sup>1</sup> NACM Cidermakers Ltd

## **The Market**

Cider and perry is sold throughout the United Kingdom in a wide range of outlets from major national and regional pub chains, major multiple retailers to farm shops and local pubs and stores. However, cider and perry represent only about 9% of the UK alcoholic's drinks market: this effectively means that 910 people out of 1,000 people do not drink cider. Of the 90 that do, cider is usually their 4<sup>th</sup> preference drink.<sup>2</sup> Furthermore cider consumption is flexible to the extent that only 56% of people who drink cider in the past year would do so again.<sup>3</sup>

Strong white ciders only represent ½%<sup>4</sup> of the total alcoholic drinks market, not the 2% as set out in the BRI<sup>5</sup>. They are a declining part of the market and it is interesting to observe that in the leading multiple retailers these products are placed on the bottom shelf and are not regularly replenished.

Notwithstanding the situation that the cider industry lacks the scale of other sectors in the alcoholic drinks industry, it remains determined and resourceful and clear on how it can deliver the long term success it has achieved to date and hopeful of in the future. This involves investment in capital equipment to build a cider mill and the specialist equipment for milling (which is only used for 12 weeks of the year during the harvest season).

There has also been investment in quality ingredients and innovation. Extending the range of ciders in the market place is essential for a healthy category with premium ciders being a particular focus. Some of the new products have added fruit extracts to extend the range but these products do not qualify for the lower duty rate.

The wide range and diversity of the cider category in the UK is essential for the long term health of the industry and growers and to secure the future for rural communities in which it operates.

It is the investment of the large cider makers on which the future of the industry (with its richness of character and quality), orchards and rural communities depend. This provides the environment for the small scale craft cider makers to flourish.

## **RELATIONS WITH GOVERNMENT**

In its continuing relationship with government the cider industry seeks no more than the opportunity to continue to grow the industry; to support the rural communities it is part of and to make an equitable contribution to society and the Exchequer.

This means working with government that:

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<sup>2</sup> Trade research

<sup>3</sup> Mintel Research (December 2010)

<sup>4</sup> CGA/IRI On & Off Trade

<sup>5</sup> Table 3, p 73 of the (BRI) Framework for Action: Changing Scotland's Relationship with Alcohol – Business and Regulatory Impact for Minimum Price per unit of alcohol as contained in the Alcohol (Minimum Pricing ) (Scotland) Bill.

1. Understands the unique circumstances of cider and the need to have a greater prospect of stability on which to base investment plans by cider makers and growers.
2. Is willing to work with the industry to develop and practical solutions to issues.
3. Balances regulations and excise duty with an opportunity to increase the contribution the industry makes.

## **THE CONSULTATION**

The NACM is therefore disappointed that the consultation with regard to minimum unit pricing (MUP) is only on the price at which the MUP should be set rather than on the efficacy of this measure and the proposed ban on multi-buy promotions.

By implementing a MUP policy the government is signalling that a population based approach is favoured above a more meaningful targeted approach. Previous administrations have recognised, in their alcohol policy misuse documents, that addressing alcohol misuse issues is a long term project that requires a change in social attitudes towards alcohol and broader cultural change. There is no single panacea and requires government and industry working together. The cider industry is ready to continue to play its part in addressing alcohol misuse issues but does not see MUP as part of the remedy but is one that will seriously damage the cider industry and the rural community it supports.

Notwithstanding the foregoing there is also a question of the legality of MUP under Article 34 of EU Treaty rules.<sup>6,7</sup>

## **ALCOHOL MISUSE**

As the figures clearly show, due to its small market share, cider and perry cannot be singled out as being responsible for alcohol misuse as some would suggest. The paradox is that despite having a relatively low unit of alcohol price for some of its products the market share for cider is as low as it is.

A review of published reports in the public domain produced by the Scottish Executive, UK Government and other bodies, quite clearly demonstrates that no one alcoholic drink is responsible for alcohol misuse – misuse is caused by certain drinkers who clearly misuse alcohol and by some under 18s who are clearly breaking the law, with their parents<sup>8</sup> principally responsible for supplying the alcohol to them.

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<sup>6</sup> Case C-216/98 *Commission v Greece* [2000] ECR I-8921, paragraph 21

<sup>7</sup> *Keck & Mithouard* supra, and *Belgapom* - Case C-63/94 *Belgapom* [1995] ECR I-2467

*Openbaar Ministerie v Van Tiggele* Case 82/77

Case 231/83 *Henri Cullet v Centre Leclerc Toulouse*

<sup>8</sup> Research by Drinkaware and John Moores University, Liverpool.

Parental support towards underage drinking will greatly undermine MUP as an effective instrument for dealing with underage binge drinking.

NACM fully appreciates the Government's concerns about alcohol misuse and its desire to address this issue. NACM and its members play a full and active part in a range of voluntary industry initiatives and jointly sponsored government industry initiatives.

NACM and its members:

1. Actively participates in the Public Health Responsibility Deal – NACM members are already meeting the target of applying the sensible drinking messaging to their packs ahead of the December 2013 deadline.
2. Contribute to the funding of 'Drinkaware', a charity that is proving successful in bringing about behavioural change in drinking behaviour. It provides valuable advice to parents to help them address alcohol issues with their children.
3. Involved in the 'Why Let Good times Go Bad' campaign, now under the auspices of Drinkaware; a £20m campaign for 5 years to influence behaviour – for the 18s to 24s to adopt a more responsible approach to alcohol.
4. Subscribes to the Portman Group which oversees the independent self-regulatory 'Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks' which is successful in ensuring that products are marketed in a socially responsible way.
5. Involved with 'Community Alcohol Partnerships' – a partnership involving companies and local communities in tackling local problems.
6. Actively involved with the Scottish government in the Scottish Government Alcohol Industry Partnership, set up to develop effective, practical and targeted measures to address the misuse of alcohol by the few.

The cider industry looks forward to continue its partnership with Government and continued voluntary action to tackle alcohol misuse issues. In drawing up policies to reduce harm from problem drinkers, however, it is essential to base solutions on the facts and robust evidence of what works.

#### **MINIMUM PRICE BASED ON A UNIT OF ALCOHOL - IMPACT**

Given that the majority of the public drink sensibly and that alcohol is misused by a minority of drinkers, general population measures such as increasing taxes or other means of raising prices e.g. introducing minimum unit pricing are not generally

regarded as the appropriate means for tackling misuse – it penalises the majority of sensible drinkers without necessarily dealing with alcohol misuse.

The Institute for Fiscal Studies<sup>9</sup> report concluded that MUP will hit responsible drinkers and, in particular, those on lower incomes. Minimum pricing of alcoholic beverages appears go beyond what is necessary for the objective sought, which is to target “harmful drinkers”.

## **IMPACT ON THE CIDER INDUSTRY**

### **Demand**

Cider remains a relatively small market compared to beer, wines and spirits. The existing duty relationship has been in place since the mid-70s and it would be inequitable to introduce measures that had the effect that would result in a significant market decline. Cider is more price sensitive than other categories and has less consumer loyalty. Consequently a relatively small increase in price can result in a large transfer of sales into other categories. The proposal, therefore, to introduce a MUP is of great concern to most members of the NACM.

The SchARR<sup>10</sup> model, referenced in the consultation document, calculated a fall in beer and cider sales of 14.1% in the off trade with a MUP of 45p.<sup>11</sup>

However, based on modelling data, used by HM Treasury to calculate the effects of duty changes, a 45p MUP will see a fall in cider sales of 48%. This will have a serious negative impact on the industry and the rural communities and constituencies which support the cider industry.<sup>12</sup>

### **Price compression**

The application of minimum unit pricing will compress price ranges of products (in the off-trade) within a category – eroding price hierarchies as the gap between the new artificial floor price of a product and the premium price is drastically reduced.

A further consideration is that retailers will make higher cash margins on products which had a low MUP and has been increased to the higher MUP. These will be more attractive to stock than premium brands that were selling prices above the MUP that are no longer offering equivalent cash margins to the retailer.

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<sup>9</sup> Alcohol Pricing and Taxation Policies, IFS Briefing Note NB 124, 2011. Appendix 8

<sup>10</sup> School of Health and Related Research at the University of Sheffield.

<sup>11</sup> Impact Assessment – A Minimum Price for Alcohol page 29

<sup>12</sup> Impact Assessment – A Minimum Price for Alcohol page 29

## Quality Consideration

Minimum unit pricing removes price as a vehicle for reflecting quality considerations and removes the incentive for maintaining quality aspects of production. Minimum unit pricing could undermine and make redundant the minimum juice content criteria for cider as the minimum price could nullify the tax penalty for lower juice content product.

## BELOW COST SELLING

It is somewhat surprising that the government dropped its proposal to introduce a ban on 'below cost' selling. It was a very effective way for ensuring that duty and VAT rises were passed through to consumers without any delay thereby addressing a government concern that, *'in practice prices do not always rise to reflect higher duties'*.<sup>13</sup>

The study **'The Affordability of Alcoholic Beverages in the EU'** by RAND Europe<sup>14</sup> noted that minimum pricing could potentially be considered to be a contravention of EU regulations and that a possible effective alternative would be a ban on sales below cost, which are not trade-restrictive.

## MULTIBUYS

NACM members are also concerned at the proposed ban on multi-buy promotions. Promotional activity is a direct and more effective way to introduce consumers to new products and product variants in the off-trade. Restricting promotions will inhibit new product introductions. Such promotions in the off-trade are designed to encourage trial and to compete with bigger brands in other categories.

There is evidence to demonstrate that the type of consumers that purchase alcohol on promotion has reasonably low weekly alcohol spends and that as a result of their purchase they reduce their alcohol spend in subsequent weeks.

Furthermore there is little if any evidence to suggest promotions encourage excessive drinking.

## Conclusion

Over the last decade cider makers have vied to operate in an increasingly competitive environment. Consistent investment in plant and equipment; new and more orchards; people and brands has resulted in an industry better placed than

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<sup>13</sup> Impact Assessment, page 4

<sup>14</sup> The affordability of alcoholic beverages in the European Union. RAND Europe , 2009

ever to succeed in the long term with continuing significant investment directed to the sustainable development for the industry.

Given the significant anticipated drop in the sales of cider as a result of the introduction of MUP all of this stands to be undone. The negative impact on industry, coupled with the collateral damage to growers and the countryside, is disproportionate to the outcomes that are being sought particularly as they stand to be undermined by unintended consequences.

NACM believe that policy on alcohol misuse should be addressed to those who have the problem not the majority who do not rather than propose a measure which unnecessarily impacts all consumers of alcoholic drinks regardless of whether or not they have anything to do with alcohol misuse.

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