

## **ALCOHOL STRATEGY CONSULTATION**

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

**SUBMISSION ON BEHALF OF**



# EDRINGTON

## Introduction

1. Edrington is a leading private employer in Scotland with a workforce of 900, and a further 1,300 employees based overseas. The company has a strong track record of responsibility in the UK marketplace where it markets The Macallan, The Famous Grouse, Cutty Sark, Highland Park, and Brugal (a Dominican golden rum).

Owned by the Robertson Trust, it also plays a significant role in the fabric of Scottish life with charitable contributions from the Trust totalling £14 million in 2011.

It sees itself as well placed to comment on the role of alcohol in UK society and to make an effective contribution to the Health Select Committee's Inquiry into the UK Government's Alcohol Strategy consultation.

2. Edrington recognises the need to address alcohol misuse. We are firmly committed to playing our part to reduce alcohol-related harm, promoting a culture where responsible alcohol consumption is the accepted norm and misuse is minimised.
3. We welcome the Strategy's focus on irresponsible drinking and reducing the number of people drinking to excess. Edrington believes that targeted measures are a more appropriate use of resources than total population approaches such as Minimum Unit Pricing (MUP) given that the total population, on average, is drinking less.

Alcohol consumption in the UK has fallen by 13% since 2004<sup>1</sup>. Weekly consumption has decreased from 14.3 units to 11.5 units, reducing for both men and women. There has also been a decline in the number of men and women drinking above the weekly guidelines. Between 2005 and 2010 for men it fell from 31% to 26% and for women from 21% to 17%<sup>2</sup>.

## 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?**

Edrington is opposed to MUP. We do not believe that Government or its commissioned research from Sheffield University makes the case that MUP will effectively tackle alcohol misuse. We believe there are alternative actions that would tackle alcohol harm more effectively (see Appendix)

## 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 effectiveness of MUP was diminished.

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.

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

<sup>2</sup> ONS, General Lifestyle Survey 2010, March 2012

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 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 harm<sup>3</sup>. Claims that it is a targeted measure having greatest impact on problem drinkers with limited impact on moderate drinkers have been rejected by an Institute for Fiscal Studies<sup>4</sup> 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, it does not state the reduction in the number of hazardous and harmful drinkers that would be achieved. In fact the proportion of hazardous and harmful drinkers remains unchanged. Consequently the Government's declared outcome of a reduction in the number adults drinking above the sensible drinking guidelines is not delivered.

The Sheffield modelling suggested there would be a reduction in harms as a result of consumption within one year of MUP being introduced. This is a prediction that is not borne out by current behaviours: 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.

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 drinking<sup>5</sup>. This point is acknowledged in the Government's Impact Assessment.

In summary, MUP is being advanced using flawed research, in contradiction to real world experience and in pursuit of an objective the Government admits the policy will not deliver.

### Legality

We believe that MUP is illegal.

We also believe, from responses provided in Parliament, that the UK Government 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 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.'

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<sup>3</sup> Babor et al, Alcohol: No Ordinary Commodity, 2<sup>nd</sup> Edition, Oxford University Press 2010.

<sup>4</sup> Alcohol Pricing and Taxation Policies, IFS Briefing Note NB 124, 2011

<sup>5</sup> Health and Sports Committee, Stage 1 report, March 2012

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

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](http://www.eurocare.org/library/updates/european_commission_asks_uk_to_abstain_from_introducing_minimum_pricing)

The European Commission considers there are other less trade restrictive measures to achieve the policy objective.

Our trade association, The Scotch Whisky Association, 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.

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.

#### **Consultation Question 2:**

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

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

There is no consideration of the impact of minimum pricing on cross border sales, illicit supply, organised crime and fraud in the Sheffield Report. Edrington is a leading operator in the Nordic markets where we have tracked cross border consumption that results from significant price increases. When Finland increased its alcohol taxes by 10% in 2008 and 2009 many consumers travelled to Estonia for alcohol. Car ferry journeys between Finland and Estonia increased by 39%!

#### **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?**

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 researched conducted by CEBR<sup>6</sup>, 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.

**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.

We note the report from the House of Commons Health Committee 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 in 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 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:**

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<sup>6</sup> Minimum Unit Pricing: Impacts on consumer spending and distributional consequences. CEBR December 2012.

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

No.

**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 could see a reduction in demand or be required to supply different pack sizes.

**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 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 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.

#### **ALTERNATIVE ACTIONS THAT WOULD MAKE A DIFFERENCE**

Edrington takes this opportunity to list the following alternative actions to MUP that merit consideration and are all legal:-

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 such as 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 a drunk person 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 problems 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 behaviour related to alcohol.