

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 Comité 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?