



# Government Response to the House of Lords European Union Committee's 8<sup>th</sup> Report of Session 2014-15: A new EU Alcohol Strategy?

Presented to Parliament  
by the Secretary of State for Health  
by Command of Her Majesty

September 2015



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## Introduction

The UK Government broadly agrees with the Committee's recommendations. In particular the UK Government agrees that action is worth formulating at EU level only to the extent that it supplements and supports what Member States can do independently (Recommendation 1). We consider that any new Alcohol Strategy would need to focus on freeing Member States to take action if they wish to do so, and that it would need to give greater flexibilities for Member States to act in accordance with their own national policies, for example supporting greater freedoms around taxation of cider and wine (as referred to in Recommendation 8).

The UK Government would not support a new EU Alcohol Strategy which resulted in an increased role for the Commission or further harmonisation, if it encroached on Member States own competencies in public health or if it placed any significant burden or barriers on businesses. It should be clear that Member States are primarily responsible for public health, but that the EU should play a necessary and important role in supporting them, while respecting the competences of Member States. Greater flexibility and sensitivity to national public health policies would also be consistent with the UK Government's support for the Single Market, our support for small producers and community pubs in particular, and our push for EU reform.

### **The case for continued EU action**

- 1. Action is worth formulating at EU level only to the extent that it supplements and supports what Member States can do independently. (Paragraph 94)**
- 2. Although the recommendations made to Member States by the WHO Global Strategy and European Action Plan are not legally binding, EU action should not conflict with these recommendations. (Paragraph 104)**
- 3. EU action on alcohol should continue to facilitate cooperation between the WHO European Regional Office and the Commission in the field of alcohol-related harm, in order to add to the evidence base and avoid duplication, in particular in the development and application of indicators. (Paragraph 105)**

#### Response to recommendations 1, 2 & 3:

We fully agree with the Committee. In particular, we support joint work by the EU and the WHO Regional Office for Europe, particularly on a shared common database and the development and application of indicators.

- 4. There is much to be said for EU action which deals with matters within EU competence and addresses the weaknesses which our evidence has revealed. However, we see no point in the Member States agreeing on a new EU Strategy which is simply a continuation of the previous one. (Paragraph 111)**

#### Response to recommendation 4:

We agree with this recommendation that the approach taken forward should not be a continuation of the previous strategy. The Commission's own evaluation of

the previous strategy, published in 2012, made clear recommendations for change to help the EU and Member States work together more effectively.

### **Possible Policy Approaches**

- 5. Any future EU action on alcohol abuse should state realistic, clearly defined and measurable objectives, and include an evaluation mechanism to assess its progress and added value. (Paragraph 112)**
- 6. Future EU action on alcohol abuse should not be confined to action under health policy, but should take a ‘health in all policies’ approach reflected through EU policies on related areas such as food labelling, cross-border marketing and taxation. (Paragraph 117)**

#### Response to recommendations 5 & 6:

We agree with the Committee. We agree that there is a need for greater coherence in existing EU policies, with a ‘health in all policies’ approach. We encourage the examination of existing EU legislation and policies which currently impede Member States from devising effective alcohol policies. The UK Government is not calling for new competences for the EU nor for new EU legislation. We would only support any future EU legislative proposals, if these clearly balance public health objectives with the need to avoid erecting barriers to the Single Market and the need to minimise burdens on business. We state further detail on our views on EU policies on labelling, marketing, and taxation under the relevant recommendations.

- 7. We believe that the most effective policy approach is one which combines measures at population level intended to reduce overall levels of consumption, with targeted measures intended to reduce harmful consumption. Such measures, if adopted at EU level, should allow enough flexibility for Member States to adapt to them to their specific national context. (Paragraph 123)**

#### Response to recommendation 7:

We agree with the Committee. In practice, most Member States adopt a combination of both population level and targeted measures. It is for each Member State to decide the best mix of policies, according to the nature and levels of harm locally. It is crucial that EU rules allow for this flexibility.

### **Taxation**

- 8. EU rules on the structure of alcohol taxation should be reviewed to allow the implementation of variable tax rates for wines and ciders in line with alcoholic strength, and to give an incentive to the manufacture of lower strength beers. (Paragraph 133)**

#### Response to recommendation 8:

We agree with the Committee. The current rules for wine and cider can create perverse incentives. An adjustment in EU rules to allow greater incentives for

lower strength beers is also something that the UK Government is keen to see. It is important that the EU should focus on actions where it can add value, respecting the competences of Member States. The Commission's recent request to the UK to remove the existing tax exemption for small cider producers, for example, is at odds with our support for small businesses and would add little or no value in terms of intra-EU trade.

## **Pricing**

- 9. We recommend that the Government review the formula laid down by the Licensing Act 2003 (Mandatory Conditions) Order 2014 for calculating the minimum permitted price of alcoholic drinks. We hope that other Member States may take equivalent action. (Paragraph 137)**
- 10. If the Court rules that minimum unit pricing is lawful under EU law, we recommend that the United Kingdom Government monitor the effects of its introduction in Scotland. If MUP does appear to be successful in bringing health benefits to the heaviest drinkers, the Government should implement the undertaking it gave in 2012 to introduce MUP in England and Wales. (Paragraph 160)**

### Response to recommendations 9 & 10:

The UK Government is keeping MUP under review. In the meantime we are supporting the Scottish Government in litigation brought by the Scotch Whisky Association against the Scottish Parliament's legislation. The Inner House of the Court of Session has referred several questions to the European Court of Justice and we await the conclusion of this process. The Welsh Government is currently consulting on a draft Public Health (Minimum Price for Alcohol) (Wales) Bill.

## **Marketing**

- 11. We recommend that the Government, in addition to any scrutiny which it undertakes of the adequacy of self-regulation of alcohol advertising, should encourage the Commission to reconsider the undertakings it gave nine years ago to work to prevent irresponsible marketing of alcoholic beverages, and to monitor the impact of self-regulatory codes. (Paragraph 181)**

### Response to recommendation 11:

The EU Alcohol & Health Forum Science Group published a report on the evidence on alcohol advertising in 2009, at the Commission's request. The UK Government took account of this in our own alcohol strategy in 2012.

Following a Green Paper in 2013, in February 2015 Commissioner Oettinger announced a revision of the Audio-visual Media Services Directive (which applies to television and television-like content, such as video on demand). The Commission is currently working to establish whether this Directive is still fit for purpose – and this exercise will include the regulation of advertising, which is the basis of the UK's co-regulatory approach, administered by the Advertising Standards Authority. The Commission published a consultation in July 2015. This

includes consideration of the current provisions on alcohol advertising. This work will lead to a new draft of the Directive by June 2016. The revised Directive will need to be transposed into UK law and be in place until the mid to late 2020s.

- 12. We recommend that the Government should press the Commission to propose amendments to the Food Labelling Regulation. These should make it mandatory for labelling on alcoholic beverages to include information on the strength, the ingredients, nutrition, and the dangers of drinking during pregnancy. (Paragraph 194)**
- 13. We recommend that the Commission propose such amendments, and that thereafter the Government should support their rapid enactment. (Paragraph 195)**

Response to recommendations 12 & 13:

The UK Government notes that the mandate to the Commission in 2011 under the Food Information for Consumers Regulation was specifically to analyse information requirements for alcoholic drinks in relation to ingredients and nutrition. We therefore believe it is unlikely that, as part of this work, the Commission will consider proposals for mandatory labelling requirements relating to other matters such as the risks of alcohol during pregnancy.

We should also note that EU legislation already requires alcoholic strength to be included on all labels. [EU Regulation 1169/2011 Provision of Food Information to Consumers, Article 9(1)(k)]

In relation to nutrition, the UK Government has been open to the idea of mandatory EU requirements on energy labelling for alcohol. We believe that this could be useful information for consumers, as alcohol is a significant component of average energy intake in the UK population. We would take a view on any specific proposal from the Commission when it emerges.

The UK Government is gathering evidence on the costs and benefits of mandatory information on ingredients for alcoholic drinks. The alcoholic drink industry is a highly competitive one. We must ensure that any new labelling rules do not unduly impact particular sectors of the industry over others, or create additional burdens without good cause.

We agree with the Committee on the importance of women having good information about the risks of alcohol during pregnancy. Under the previous UK Government, UK industry made a commitment under the Public Health Responsibility Deal to:

*“ensure that over 80% of products on shelf (by December 2013) will have labels with clear unit content, NHS guidelines and a warning about drinking when pregnant.”*

Under the previous UK Government, an independent report showed that these commitments resulted in 92.8% of bottles and cans of alcoholic drinks in the UK carrying a warning on drinking during pregnancy. Member States retain the ability to legislate or follow a voluntary route with respect to such a warning on alcoholic

drinks, with at least one Member State (France) having legislated for a warning similar to that agreed voluntarily by UK industry.

### **Bodies that support action at EU level**

- 14. We recommend that the Commission review the structure and functioning of the Committee on National Alcohol Policy and Action (CNAPA) in order to ensure that it is fully capable of carrying out its coordination function. In particular, it should encourage Member States to nominate officials who are in a position to represent their governments' views. (Paragraph 205)**

#### Response to recommendation 14:

The EU Commission funded an external evaluation of the EU Alcohol Strategy, which reported in 2012. This saw a need to improve the ways in which CNAPA functions, to ensure greater effectiveness. It recommended that consideration be given to enhancing CNAPA's work on cross-sector policy issues through greater interaction with other policy areas, including both Commission services and national governments; and it recommended that CNAPA adopt a multi-annual work plan, reporting on its implementation through short annual reports. We are sympathetic to these recommendations and regret that the Commission has not acted on them so far.

- 15. We recommend that the Commission restate the remit of the European Alcohol and Health Forum (EAHF) and review its structure and functioning. The terms of reference of the Forum should clearly state the roles and responsibilities of all participating stakeholders, including the alcohol industry. (Paragraph 222)**

#### Response to recommendation 15:

The external evaluation also considered the effectiveness of the EAHF and recommended that consideration be given to refocussing the EAHF on fewer well defined action areas, more clearly aligned with the priorities of the alcohol strategy; and also work on outcome and impact indicators to allow better monitoring and evaluation of commitments. We support this and regret that the Commission has not acted on them so far.

We believe that lessons might also be learned from the previous UK Government's Responsibility Deal Alcohol Network, in the ways that voluntary commitments are negotiated and agreed and then subject to independent monitoring.

- 16. We recommend the re-establishment of the Science Group, which should be independent from the EAHF and include experts from all Member States. The Science Group should receive adequate support as well as sufficient financial resources from the Commission. (Paragraph 229)**

#### Response to recommendation 16:

We agree that scientific advice on alcohol policy and alcohol and health needs to be independent and adequately resourced and supported. It is critical that any

new arrangements are at least as independent and well founded as the EU Alcohol & Health Forum Science Group has been. On 13 May, the EU Commissioner for Science, Research and Innovation announced a new mechanism for independent scientific advice to the Commission. Details may be found in the link:

[http://ec.europa.eu/unitedkingdom/press/frontpage/2015/58\\_en.htm](http://ec.europa.eu/unitedkingdom/press/frontpage/2015/58_en.htm).

We understand that the Commission is likely to use this new mechanism for scientific issues related to alcohol and alcohol policy among many others.

**17. EU action on alcohol should continue to be supported by bodies facilitating the exchange of expertise and best practices, which is seen by many as the key benefit of the EU Alcohol Strategy 2006–12. (Paragraph 243)**

**18. We recommend that the roles and mandates of CNAPA, the EAHF and the Science Group should be formalised and reviewed periodically. In each case the role should include a clear work plan in line with the stated objective of any future EU action on alcohol abuse, as well as an explanation of the relationships between bodies and the Commission, which should be agreed by the Council. (Paragraph 244)**

Response to recommendations 17 & 18:

We agree with the Committee. Where they exist, these bodies should have clear roles and work plans, taking account also of the recommendations of the external evaluation. It is critical that roles and work plans are agreed by Member States through the Council.

## **Research**

**19. Where those responsible for formulating policy, in this case DG SANCO, identify a need for further information, they are best placed to commission such research. (Paragraph 266)**

Response to recommendation 19:

DG SANTE (formerly DG SANCO) directly commissions research to influence its policy formulation when they identify a specific need, predominantly through the EU Health Programme calls for tender. (Their plans for this year are in the procurement section of the 2015 workplan, page 27:

[http://ec.europa.eu/health/programme/docs/wp2015\\_annex\\_en.pdf](http://ec.europa.eu/health/programme/docs/wp2015_annex_en.pdf))

**20. The quality of research will be questioned if it is carried out by researchers who are perceived to have vested interests in the outcome. The best way to diminish any such perception is to commission research from as wide and varied a network of researchers as possible. This should be done through competitive tendering. (Paragraph 267)**

**21. It should be no part of the researchers' task to suggest what policies should be based on their findings. Any attempt to do so will give rise to the perception of a lack of independence. (Paragraph 268)**



#### Response to recommendations 20 & 21:

While this is a matter for the Commission for the research it commissions, we agree with the Committee that research should be commissioned from a wide and varied network. The procurements are managed by the Consumers, Health, Agriculture and Food Executive Agency and are issued as open tenders (on the following website:

[http://ec.europa.eu/health/programme/docs/wp2015\\_annex\\_en.pdf](http://ec.europa.eu/health/programme/docs/wp2015_annex_en.pdf))

A research commission may sometimes require the evaluation of different policy options.

- 22. Behavioural change, the impact of advertising on consumption by children and young people, harm to others and alcohol-related crime are some of the many areas where there are gaps in knowledge and where further research would significantly assist policy formulation. (Paragraph 274)**

#### Response to recommendation 22:

We broadly agree with the Committee that these are important areas where research both at EU and national level would be of particular value for policy formulation.

- 23. The Science Group could play a useful part in identifying gaps in the knowledge surrounding alcohol-related harm, and suggesting the parameters for research. It could also promote standardised terminology and common measurement standards to improve the comparability of research across the EU. (Paragraph 279)**

#### Response to recommendation 23:

We agree that the Science Group, or any new EU arrangements for scientific advice, could usefully contribute to these issues.

#### **A new EU Alcohol Strategy**

- 24. There is much to be said for EU action which concentrates on those areas where it has competence and addresses the weaknesses which our inquiry has revealed. A new Strategy which goes no further than its predecessor would achieve little. (Paragraph 284)**
- 25. We have identified the structure of the taxation of alcohol and the labelling of alcoholic beverages as matters where the EU must exercise its competence to enact necessary legislation. It will be for the Commission to take the initiative. (Paragraph 285)**
- 26. The self-regulation of advertising, the organisation and powers of CNAPA, the EAHF and its Science Group, and research, are among the areas where the Commission should work with Member States to improve the position, in accordance with our recommendations. (Paragraph 286)**
- 27. The EU Alcohol Strategy 2006–12 took the form of a Communication from the Commission to the Council. A similar Communication, whatever its title,**

**which embodies the Commission's determination to make these changes, and which is approved by the Council, would in our view make a significant contribution to reducing alcohol-related harm in the EU. (Paragraph 287)**

Response to recommendations 24, 25, 26 & 27:

We agree with the Committee that EU action should focus on areas of its existing competences, aiming for effective action in these areas, while fully respecting Member States' primary responsibility for public health.

**28. The Latvian Presidency intends to discuss the next steps towards a new EU Alcohol Strategy at an informal Council on 20–21 April 2015. We hope that our recommendations will assist the deliberations of the Member States, and that they will invite the new Commission to make the preparation of such a Communication an urgent priority. (Paragraph 288)**

**29. We recommend that the United Kingdom Government make every effort, through the Council, to bring this about. (Paragraph 289)**

Response to recommendations 28 & 29:

The Health Commissioner, Dr Andriukaitis, announced on 18 May 2015 in the EU Alcohol & Health Forum that the Commission has no plans for a new alcohol strategy. He proposed to include alcohol policy issues within a new framework on Non-Communicable Diseases. We doubt that a framework on Non-Communicable Diseases would adequately address the need for Member States to have greater flexibilities in developing and adopting their own alcohol policies. At the Health Council in Luxembourg on 19 June, many Member States called on the Commissioner to reconsider. Dr Andriukaitis agreed to give further consideration to this.

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