DIAGEO

DIAGEO RESPONSE TO THE HEALTH AND SPORT COMMITTEE’S CALL FOR EVIDENCE ON THE ALCOHOL (MINIMUM PRICING) (SCOTLAND) BILL
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About Diageo
Diageo is the world’s leading premium drinks business and a top-20 FTSE 100 company. We employ more than 22,000 people worldwide, in more than 80 countries, including over 5,000 people in the UK, in more than 50 sites.

Our brands include: Bell’s, Johnnie Walker and J&B whiskies as well as a range of malt whiskies from our 29 Scottish distilleries alongside Smirnoff vodka, Captain Morgan rum, Baileys liqueur, José Cuervo tequila, Tanqueray and Gordon’s gin, Guinness beer and Blossom Hill wines.

Diageo in Scotland
Scotland is embedded in Diageo, our culture, values, brands and people. Today we produce over 30 million cases of Scotch whisky annually, making us the world’s single largest producer. We are committed to investing in Scotland, and the Scotch whisky industry, to promote global demand for our brands. Every year we invest over £75 million in Scotland improving our production capabilities, and spend over £400 million with Scottish-based suppliers.

In addition to our existing Scotch production footprint, Diageo also produces around 12 million cases of white spirit brands such as Smirnoff, Tanqueray and Gordon’s in Scotland. The majority of these drinks are sold globally in more than 180 markets, confirming Diageo as Scotland’s top manufacturing exporter, with our products accounting for over 20% of Scotland’s food and drink exports. Diageo currently employs more than 4,000 staff at around 50 sites throughout Scotland who all contribute to Diageo’s global success.

Executive Summary
Diageo welcomes the opportunity to submit written evidence to the Health and Sport Committee on the Alcohol (Minimum Pricing) (Scotland) Bill. We believe that an open and constructive dialogue between Government and stakeholders is a vital part of the process of good policy making and hope that our response will help inform policy development in this important area.

We continue to agree with the Scottish Government’s analysis that there is no single, simple solution to alcohol misuse and we fully endorse its objective of eliminating irresponsible behaviour—whether on the part of consumers, producers or retailers. We also agree that attitudes in Scotland to alcohol misuse must change and alcohol-related harm must be reduced. Diageo actively promotes responsible drinking and works with Government, communities and other stakeholders on a range of targeted interventions aimed at reducing alcohol-related harm and misuse. We are a founding member of The Scottish Government Alcohol Industry Partnership (SGAIP) and operate a rigorous internal code of practice on responsible marketing.

However, whilst we agree with the Scottish Government that a rebalanced relationship with alcohol is needed for some groups and individuals in Scotland, we do not agree that minimum unit pricing is the way to achieve this. Diageo continues to oppose the introduction of minimum pricing for alcohol. We believe introducing a form of minimum pricing for alcohol both in principle and in practice, for a number of reasons:

- Diageo continues to oppose the introduction of minimum pricing for alcohol. We believe introducing a form of minimum pricing for alcohol both in principle and in practice, for a number of reasons:
- There is no strong evidence as to the effectiveness of minimum pricing as a policy to reduce alcohol-related harm. It is often portrayed as a targeted measure having greatest impact on problem drinkers with limited impact on moderate drinkers. A recent report from the Institute for Fiscal Studies rejected these assertions finding that minimum unit pricing will hit responsible drinkers and, in particular, those on lower incomes at a time when household budgets are already under extreme pressure.
- Rather than introduce minimum pricing, we believe the Scottish Government should focus on working together with industry to establish appropriate standards for alcohol promotions and help consumers make informed choices about how they drink. The Scottish Government should also work with a range of stakeholders such as parents, educators, police, media and NGOs to introduce targeted interventions aimed at the minority of the population who misuse alcohol, as this is a proven and effective response to the problem.
- We strongly believe that a system of co-regulation is the most appropriate and effective approach to tackling alcohol misuse. Under co-regulation, the Government and the alcohol industry draw up standards together, which are strictly monitored and enforced, both within the industry and by Government through existing laws and regulations. Strengthening the enforcement of these existing laws and regulations would be preferable to the introduction of new laws.

The Advantages and Disadvantages of Establishing a Minimum Alcohol Sales Price Based on a Unit of Alcohol
Diageo agrees with the Scottish Government that a rebalanced relationship with alcohol is needed for some groups and individuals in Scotland. However, we continue to oppose the introduction of minimum pricing for alcohol both in principle and in practice, for a number of reasons:

- The Relationship Between Price, Consumption and Harm
Diageo believes minimum pricing would not tackle the problem of alcohol misuse among the minority of the Scottish population and would disproportionately penalise responsible drinkers who make up the overwhelming majority. The Scottish Government’s own data shows that 73% of men and 82% of women in Scotland already drink within the Chief Medical Officer’s weekly alcohol guidelines.
The relationship between price and consumption is complex, as are the causes of alcohol misuse. For instance, the price of alcohol is largely the same in Scotland as it is in England; however alcohol health harms in Scotland are far higher than in England. In 2009, the latest year for which comparable data is available, alcohol-related mortality rates for men in Scotland were nearly double those for men in England and Wales (30 per 100,000 population compared to 16 per 100,000 population). A similar pattern was seen for women, with alcohol-related mortality rates for women in Scotland almost double those for women and England and Wales (15 per 100,000 population compared to 8 per 100,000 population).

Proponents of using minimum pricing as a health policy instrument argue that increasing the price of beverage alcohol makes it less accessible to consumers and will result in reduced consumption, alcohol misuse and potential harm. However, the assumption of an inverse relationship between levels of taxation and total per capita consumption is largely based on basic economic theory and the relationship between supply and demand, as well as models projecting the impact of reduced taxation on drinking. There is little evidence to support a direct correlation between the level of alcohol price in a country and the level of drinking. Studies have shown that consumers respond differently to price changes in different countries and recent empirical evidence from Denmark, Finland, and Sweden indicates that despite predictions to the contrary, the lowering of the price of alcohol (through decreased taxation) did not lead to increased consumption.

Furthermore, we do not believe that minimum unit pricing is both a population-wide and targeted policy, as the Scottish Government asserts, as we do not believe that the minority who misuse alcohol will be effectively influenced by pricing mechanisms. This view is supported by a number of leading experts and organisations including the USA’s lead agency on alcohol issues, the National Institute on Alcohol Abuse and Alcoholism (NIAAA) which reported that research suggests the heaviest-drinking five percent of drinkers do not reduce their consumption significantly in response to price increases, unlike drinkers who consume alcohol at lower levels. National Institute on Alcohol Abuse and Alcoholism, Alcohol Alert No. 51, January 2001). Consistent with the NIAAA findings was a 2009 meta-analysis, “Effects of beverage alcohol price and tax levels on drinking: a meta-analysis of 1003 estimates from 112 studies,” published in Addiction. The study found that heavy drinkers are far less responsive to price increases than the total population of drinkers.

The Impact of Minimum Pricing on Responsible Drinkers

We do not support measures, such as minimum pricing, that aim to reduce total alcohol consumption. It is only the consumption of the minority of the population who misuse alcohol (causing health harm to themselves and crime and social disorder) that should be targeted, not consumption among the responsible majority who drink within the recommended guidelines. It is estimated that 80% of alcohol is consumed by 30% of the UK population, therefore targeting hazardous and harmful drinkers offers the greatest opportunity to reduce harm. Reducing the number of hazardous and harmful drinkers will produce a reduction in per capita consumption. Reducing consumption without significantly reducing the number of heavy drinkers, while undermining a major Scottish industry and its contribution to the economy, is not a policy that is in the national interest.

As the Scottish Government has noted in its ‘Business and Regulatory Impact Assessment for Minimum Pricing Per Unit of Alcohol as Contained in Alcohol (Minimum Pricing) (Scotland) Bill’ document, the majority of responsible drinkers will be significantly affected by minimum pricing. At a price of 50p per unit, for instance, 73% of all alcohol sold in the off-trade in Scotland will have its price increased, affecting the vast majority of consumers. 92% of vodka, 72% of whisky, 77% of beer and 63% of wine prices in the off-trade would rise overnight as a result of a 50p minimum unit price.

A Strategic Approach to Tackling Alcohol Misuse Based on Targeted Interventions

We believe that the solution to tackling alcohol misuse lies in:
(i) sustained education and awareness; (ii) strong enforcement of existing laws applying to drinkers and drink retailers; and (iii) targeted interventions aimed at those who misuse alcohol or are at risk of misusing alcohol. In addition, every alcohol drinker also has to take responsibility for his or her own actions, as we all have a role to play in changing the country’s drinking culture.

Unless all stakeholders share the responsibility for effecting behavioural change, we will fail to change drinking culture in Scotland and will not find the balance that the Government is seeking.

The Scottish Government has in place a number of initiatives to reduce alcohol-related harm, including the ‘Framework for Action’, the Licensing (Scotland) Act 2005 and the Alcohol Etc (Scotland) Act 2010, the latter only coming into force on 1 October 2010. Alcohol consumption in Scotland has been stable for six years and indicators of health harm show a decline. This would indicate the measures already put in place are having a positive impact. As these measures have only been in place for a short period of time, their impact should be fully assessed before any new policies are introduced.

The Legality of Minimum Pricing

Diageo agrees with the Wine and Spirit Trade Association and a number of other stakeholders (industry and non-industry alike) that it is inconsistent with the operation of the free market for the state to intervene on price. This view is supported by United Kingdom and European Competition laws, intended both to prevent barriers to free trade and to protect consumer interest.

While we acknowledge that a definitive view on the legality, or otherwise, of the Scottish Government’s proposals for minimum pricing cannot be reached until its exact terms are specified, the legal advice thus far commissioned by the WSTA suggests a minimum price regime does conflict with the objectives of UK and European Competition laws and WTO rules.

Diageo does not wish, at this stage, to make detailed comments on the potential legality or illegality of the Scottish Government’s proposed plans for the introduction of minimum pricing. However, we would like to draw the Committee’s attention to recent comments made by the UK Public Health Minister Anne Milton in which she suggested that the UK Government has legal advice which indicates that minimum unit pricing is probably illegal: “Our advice is that that in itself is probably illegal as it contravenes European free trade legislation.”
There is also relevant jurisprudence that should be fully considered. We strongly urge that the Scottish Government engages with the European Commission, and in particular the Directorates General responsible for competition policy and the internal market, to ensure that it fully takes into account their guidance and moreover, in order to ensure that the Scottish Government does not enact legislation contrary to its obligations pursuant to the Treaty on the Functioning of the European Union. Technical standards such as rules governing the marketing of products require prior notification to the Commission and Diageo believes it is incumbent upon the Scottish Government to follow these procedures with a view to avoiding the need for industry players to bring proceedings against any legislation imposing minimum prices.

Impact on Competitiveness and Other Unintended Consequences

John Fingleton, CEO of the UK’s Office of Fair Trading, has recently made an important comment in this regard, stating that setting a minimum price on a product “has a number of undesirable effects”. He stated that “it would reduce the incentives of firms to compete, innovate and cut costs. So the dynamic benefits of competition are lost. It is the job of competition authorities to highlight to government where such a short term fix can have serious and long-lasting negative effects."

We agree with Mr Fingleton’s comments. The introduction of minimum unit pricing is likely to lead to retailers reducing the range of products available to Scottish consumers in the future.

There is also a risk that if some people are priced out of the legitimate market, they will simply turn to illicit sources from which to obtain their drinks. There is very strong evidence to suggest that price increases fuel illicit production or cross-border trade in alcohol, particularly where there is a disparity between one country and another. The likelihood is further increased by the proximity of such countries and the ability to order online. For instance, the impact of higher duty rates and the strength of the Euro on the Irish market have been well documented, with a dramatic increase in cross-border traffic and alcohol sales north of the border. Alcohol sales in Northern Ireland went up by over 25% in 2008 while off-licence sales alone in the Republic of Ireland fell by 16%. We also know that following tax reductions on alcoholic beverages in Denmark (2003) and Finland (2004) to comply with EU harmonization requirements, cross border traffic of alcohol to Sweden rose.

The Level at Which Such a Proposed Minimum Price Should Be Set and the Justification for That Level

We are opposed to the introduction of minimum pricing. However, as a matter of principle if such a scheme is introduced any decisions over the appropriate minimum unit price and the administration of the scheme should be transparent, cover all categories of alcohol equally, and be based on a clear understanding of their likely impact on alcohol-related harm and alcohol misuse. This impact should be subject to regular review against published targets and minimum pricing should be discontinued should these reviews demonstrate it is ineffective or is causing undesirable consequences, as set out above.

Any other aspect of the Bill

We believe the ‘sunrise clause’, which clause 2 of the Bill will remove, should be retained so that the impacts of the Bill can be properly assessed.

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References

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3. HS 2010
8. ‘Business and Regulatory Impact Assessment for Minimum Pricing Per Unit of Alcohol as Contained in Alcohol (Minimum Pricing) (Scotland) Bill’, P 15, para 2.30 “The 2010 price band data demonstrates that a considerable proportion of alcohol is sold very cheaply, with 11% of alcohol sold through the off-trade in Scotland retailing at below 30p per unit, 45% below 40p per unit and almost three-quarters (73%) under 50p per unit. Figure 9 shows the price distribution in percentage terms”.
9. Monitoring and Evaluation Scotland’s Alcohol Strategy (MESAS) – Nielson sales data 2010
10. MESAS: An update of alcohol sales and price band analyses. August 2011
11. E.g. Alcohol-Related Deaths, GROS 5 August 2011
15. Nielsen NI Scantrack Data