Alcohol (Minimum Pricing) (Scotland) Bill

Scottish Beer and Pub Association (SBPA)

Thank you for giving the Scottish Beer and Pub Association (SBPA) an opportunity to comment on the Alcohol (Minimum Pricing) (Scotland) Bill.

The Committee may be aware that the Scottish Beer and Pub Association’s members account for 1,200 of the 5,000 licensed public houses in Scotland. Our members promote the responsible sale of alcohol and management in all of its licensed premises, helping to Scotland a safe and enjoyable place to visit and socialise in. Our members also include a number of Scotland’s major brewers and drinks producers. Our Association’s sister trade association is the British Beer and Pub Association, the BBPA.

A recent study by Oxford Economics (for the British Beer and Pub Association) found that the sector sustains 49,960 direct jobs in Scotland and 71,093 in total when indirect and induced jobs are included. This compares to a total of 45,300 jobs supported by Scotch Whisky in Scotland. The beer and pub sector also adds nearly £1.5 billion in value to the Scottish economy.

We would respond to the Committee’s questions as follows:

**Question: The advantages and disadvantages of establishing a minimum alcohol sales price based on a unit of alcohol**

The individual views of SBPA’s members vary on the issue of minimum pricing and therefore, as an Association, SBPA does not have a collective position in relation to the principle of minimum pricing of alcohol. In previous submissions on the subject we have focused instead on our concerns about the process by which a minimum price would be set and implemented; the potential conflict of the measure with European Law; and the potential impact on consumers and the Scottish Licensed and Hospitality Industries. We would repeat those comments.

However, we would reiterate that a number of our members are supportive of the introduction of minimum pricing of alcohol, whilst other members are opposed to the measure, and we understand that some of our members may be making submissions to the consultation directly.

In general, SBPA believes that Government interventions on tax and price are blunt and poorly targeted. Policy should target problem drinkers, not penalise the whole population.

SBPA would question the Scottish Government’s ability to deliver its proposals for the minimum pricing of alcohol using the powers available to the Scottish Parliament under the Scotland Act 1998. Even if this is an option, we would highlight that there may be significant adverse consequences for the competitiveness of the Scottish pub and hospitality industries of having differential governmental policies on the fundamental issue of product pricing.
between Scotland and the rest of the UK. We do not believe this would be to the benefit of the industry or our customers.

We believe administrative intervention on the price of alcohol under European law can only be used as a final resort having attempted other public policy solutions, and only on the basis of clear evidence that such intervention will reduce alcohol misuse and harm. We believe it is therefore for the Scottish Government to proactively and conclusively demonstrate this in justifying the appropriateness of its proposals to the relevant competition authorities prior to progressing with its proposals.

SBPA however is not yet convinced that the Scottish Government has exhausted other policy solutions on this issue, particularly in light of the fact that the Licensing (Scotland) Act 2005 only came into effect in September 2009 with subsequent changes, including those restricting off-sales promotions only coming into effect in October 2011. There has been no time to meaningfully assess the cumulative impact of all of these legal changes on tackling alcohol abuse.

More fundamentally, we believe that this blanket approach on pricing will prove detrimental to the majority of Scots who consume alcohol sensibly and responsibly, in attempting to tackle a problem relating to a minority.

**Question: The level at which such a proposed minimum price should be set and the justification for that level**

We would highlight that in delivering the Scottish Government’s proposed pricing scheme industry will necessarily be excluded by competition law from any consultation on what prices should be. This is also the view of the Scottish Government itself in Section 31 of its Policy Memorandum to the Bill which states:

“The Scottish Government, therefore, does not consider self-regulation or industry involvement in setting a price is either desirable or compatible with EU law and in particular Article 101 of the Treaty on the Functioning of the EU which would prohibit the alcohol industry from being involved in the setting of a minimum price.”

Having considered this from a practical perspective, we do not believe Government or other groups outside of the industry actually have the necessary competence to set the price of a pint of beer. Industry which collectively could assist in that process will be excluded from those discussions. On that basis we are unable to offer any comment on one of the questions posed by the Committee as part of its consultation, namely “The level at which such a proposed minimum price should be set and the justification for that level.”

Even if SBPA could legally comment, we cannot offer any meaningful insight on these issues given that this would be reliant on modelling customer behaviour which we do not believe to be possible in isolation. These are
matters for commercial negotiation and given that we do not represent off-sales retailers of alcohol we cannot meaningfully comment on these matters.

**Question: Any other aspects of the Bill**

We would offer the following comments on other aspects of the Bill.

**“Sunset Clause”**

The Association notes that the Scottish Government conceded a “sunset clause” during the Scottish Parliament’s deliberation on the Alcohol etc. (Scotland) Act 2010. This was the only provision relating to proposals for minimum pricing which was passed into law by the last Parliament. We believe that the inclusion of a “sunset clause” should be a pre-requisite in relation to the current Bill.

If the Government was prepared to agree a sunset clause in relation to the Alcohol Act 2010 then this is made even more imperative in relation to the proposed Bill given that the current Scottish Government has an overall parliamentary majority and the current term of the Scottish Parliament will run for five years. As such we believe there must be a “sunset clause” included in any legislation given that the measure is untested and untried and should be subject to meaningful scrutiny following its introduction.

**Evidence-Based**

The detail of how any minimum pricing proposals will work and be adjusted following their introduction is unclear. We would suggest this detail needs to be included on the face of the Bill itself and not left to Regulations which are subject to much lower levels of parliamentary scrutiny than the legislation itself. Additionally, we would suggest that any specific proposed minimum price for a unit of alcohol needs to be introduced on the basis of clear evidence which should be subject to independent scrutiny.

As the Scottish Government has conceded the drinks industry cannot be involved in discussions about minimum pricing levels. SBPA would suggest that this severely undermines the ability of any pricing proposals to be implemented and adjusted on an evidence-based foundation.

**Process**

In the event that the Scottish Government is successful in passing the Alcohol (Minimum Pricing) Bill, the Association would suggest that the processes for reviewing and adjusting any minimum pricing level need to be made more transparent and explicit. We believe that the Scottish Government has said that any proposal to adjust the minimum pricing level would be subject to an affirmative vote by the Scottish Parliament.

SBPA would suggest that this needs to go further in that the Parliament, in advance of any vote on these matters, should have to take evidence on these
matters and produce a report commenting on any Scottish Government proposals to adjust minimum pricing levels. This exercise should perhaps be advised by an independent advisory group with a wide membership reflecting the lack of industry involvement.

Again we would suggest this detail needs to be included on the face of the Bill itself and not left to Regulations which are subject to much lower levels of parliamentary scrutiny than the legislation itself.

**Financial Benefits For Industry**

We do not accept that there will necessarily be any “windfall” generated for brewers or on-sales licensed retailers from the introduction of minimum pricing of alcohol. Pubs and clubs already sell alcohol well above the minimum price levels which have been previously suggested by the Scottish Government. Additionally, there would still need to be on-going contractual discussions between producers and off-sales retailers as to the price at which alcohol was sold by producers post any minimum price being set.

We would not anticipate that the price at which alcoholic products are sold by producers to off-sales retailers would be significantly different simply because of the introduction of minimum pricing in Scotland. The relatively dominant position of retailers in the supply chain, and the already intense competition between the major supermarket chains would be more significant factors in determining pricing levels. This is referenced in the Regulatory Impact Assessment for the Alcohol (Minimum Pricing) (Scotland) Bill, produced by the Scottish Government, which states:

“5.30 ... The RAND report for the Home Office concluded that the evidence from the UK alcohol market suggested that major retailers of alcohol, operating in an oligopolistic market, have a relatively stronger bargaining position than producers.”

We would therefore suggest that any financial benefits arising from the introduction of minimum pricing would be very largely, if not totally, retained by off-sales retailers, specifically the major supermarkets

**Lead-In Time**

In relation to the lead-in time for any introduction of minimum unit pricing, the Association would suggest that there will a resource requirement for producers and off-sales retailers to facilitate the introduction of any minimum price for alcohol. There may also be consequent impacts on existing contractual arrangements between producers and retailers which will need to be accommodated if minimum pricing is introduced, dependent on how soon minimum pricing was introduced after being passed by the Scottish Parliament.

An additional consideration is the sales cycle relating to alcohol and alcohol sub-categories and volumes sold during the course of a year. It would be sensible not to seek to introduce minimum pricing of alcohol at one the busier
times of the year for alcohol sales, for example, during or in the run-up to the festive period, in order to allow any pricing regime time to bed-in.

Additionally, we would request that the Scottish Government delivers a funded awareness campaign relating to the introduction of minimum pricing in the lead-up to its introduction targeted at customers and more importantly the trade. This critical support has been lacking in relation to previous changes in licensing legislation introduced by the Scottish Government.

**Business Costs**

It is not possible for us to meaningfully comment on the additional costs relating to the introduction of minimum pricing at this time. This will clearly be dependent on the detail of any specific proposals and the mechanisms put in place to deliver these.

We trust our comments are of use and as always the Association is willing to supply any further information, if the Committee requires it.

Patrick Browne  
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