Alcohol (Minimum Pricing) (Scotland) Bill

Pricing mechanism

Law Society of Scotland

I refer to the above, to your e-mail dated 7 February 2012 and am now in receipt of the following comments from both the Law Society of Scotland's Licensing Law and Competition Law Sub-Committees for your information.

The Society agrees that index-linking the minimum unit price is not appropriate for the reasons set out in the paper under “disadvantages”.

The Society believes that information on minimum unit pricing should be collected regularly in order that the ability of the legislation to deliver that which it was conceived to deliver can be measured against actual rather than model data.

The Society anticipates that this type of exercise would be one of the European Commission’s key conditions and, even if this is not the case, the Scottish Government should in any event consider this as a necessary undertaking.

The resetting of minimum unit price could therefore be part of a process of regular review of the efficacy of the legislation. The Society appreciates that initially, modelling would be used but as actual data emerges, this data would come to be used in place of modelling.

The decisions about what data to collect and about when and how to use modelling and introduce actual data, as well as the content and frequency of reviews should in themselves be evidence based.

The Society believes that the point about cost is a valid one and that some sort of cost benefit analysis requires to be undertaken.

The Society takes the view that if the Scottish Government does not collect such data and use same in order to conduct a review process, then such an exercise may be conducted by other interested parties and statistics gained there from may be advanced in order to argue that the legislation was simply an experiment that had not delivered the results expected and as a consequence of this, the balance of the proportionality argument on which the EU legality of the measure has been set against, had demonstrated that this was in fact a disproportionate measure.

In all the circumstances, any proposed mechanism for fixing minimum unit pricing requires to be fair, understandable and proportionate.

Also, from a practical point of view, the Society notes that it would be difficult for premises licence holders to keep abreast of quarterly reviews as prices are set in advance. Accordingly, any minimum unit pricing mechanism employed would require to have a realistic run-in time.
I trust that these comments on your paper on minimum unit pricing mechanisms are of assistance to you.

Should you, however, wish to discuss further, please do not hesitate to contact me.

Kind regards

Alan McCreadie
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Law Society of Scotland