Further to your letter of 2 December 2009 addressed to Angela Leitch, I enclose the written response to the call for evidence on behalf of Clackmannanshire Licensing Board (referred to as the "Board"), having consulted with the Board at its meeting on 7 January 2010. I have addressed each of the points in turn with a general summary of the Board's view at the end of the document.

1. Minimum Pricing

The Board recognises that the country's relationship with alcohol requires to be addressed, however the Board is not convinced by the current evidence presented by the Scottish Government in support of their argument in favour of minimum pricing. The Board is concerned that the basis of calculating the proposed reductions in consumption have not been fully researched and are not backed up by accurate statistical evidence.

The Board is of the view that minimum pricing amounts to a measure having a quantitative restriction on imports, and given the lack of supporting evidence in relation to the public health benefits of reduction in consumption, cannot see the justifications to this principle permitted by law. Accordingly, the Board is of the view that the justifications for minimum pricing based on the evidence provided fall foul of European Community Law and that this major obstacle has to be addressed prior to any further consideration of the effectiveness of this as a measure.

Furthermore, the Board is of the opinion that on the evidence provided, minimum pricing will not have the effect of deterring those with alcohol dependencies and may only serve to increase the proportion of money spent by those persons on alcohol in relation to other commodities. On the current evidence, it is difficult to justify the imposition of minimum pricing where the effect is to create a regressive system of pricing for alcohol.

On the basis set out above, the Board do not believe that the current minimum pricing model proposed would achieve the policy objectives and would require further evidence to consider any further aspects of the principle.

2. Social Responsibility Levy

The Board is not supportive of the introduction of a social responsibility levy. The Board is of the view that the licensed trade has already had to absorb the costs of converting to the new licensing regime and that this concept would not be supported by the licensed trade, potentially making compliance difficult. In the event that the legislature is not supportive of the Board's view, the Board would submit that either (1) the power to set any social responsibility levy be determined by the appropriate licensing board based on the locality of
the night time economy or (2) the Scottish Government set a national levy on all licence holders.

3. Raising the Age of Purchase of Alcohol on Off Sales to 21

The power to raise the age of purchase is not supported by the Board. The Board are of the opinion that the power to vary age limits locally will lead to problems in enforcement and result in uncertainty, especially where neighbouring licensing boards adopt different policies. This problem is further exacerbated where the neighbouring boards fall within the same Police area. This will require police officers to become familiar with different licensing regimes and may lead to increased pressure on already stretched resources.

Furthermore, the Board is of the view that the evidence provided does not indicate that a person aged 21 will be more responsible with alcohol as opposed to a person aged 18 would be. The Board would require to see more evidence indicating that 21 year olds drink more responsibly than those aged 18. The effect of these provisions if enacted and exercised would be to demonise an element of youth in society without anything other than anecdotal evidence to justify this position.

It is recognised by the Board that the objective of this provision is to attempt to discourage "agent sales" by those aged between 18 and 21 years of age, however the ability to circumvent this provision can be easily achieved, especially in the circumstances where Board areas are in close proximity or there are other licensed premises in close proximity to the problem areas. The Board would also expect that more detailed evidence of the problem of "agent sales" be provided for consideration.

On this basis, it is the view of the Board that for the objectives to be achieved, this condition would need to be imposed nationally and not on a local basis. It is suggested by the Board that the policy goal of prevention of under age sales would be better achieved by the imposition of a mandatory age verification scheme and use of existing powers of review under the Licensing Scotland Act 2005.

4. Promotional Offers

The Board is of the view that what amounts to a promotional offer is for the Scottish Government to determine, however agrees that such measures should be extended to apply to all Licences as a mandatory condition.

One particular point to note is that the on-sales trade have devised certain promotions that they believe takes the promotion out with scope of the mandatory conditions and have essentially laid down the challenge to the appropriate Board to take enforcement action against them. This approach is not helpful and results in officers time being spent on dealing with these matters. In particular, the Licensing Standards Officer is required to commence enforcement proceedings, which given the complexity of the legal argument can be time consuming and in any event takes the officer away
from inspection and compliance duties in respect of other premises in the areas. It is a privilege and not an automatic right to be authorised to sell alcohol by any Licensing Board.

In light of the above statement, the Board is of the view that the definition of what type of activity amounts to an "irresponsible drinks promotion" should be prescribed by Regulations under the Licensing (Scotland) Act 2005 or the Bill. It is submitted by the Board that the following definition be used as the basis of a catch all provision: "A drinks promotion is irresponsible where the particular promotion provides a financial incentive or inducement (whether directly or indirectly) to buy more alcohol than was intended"

5. Any other aspects

Whilst the Board does not wish to make any specific comments on the other provisions of the Bill, it is the view of the Board that the localisation of decision making would be detrimental to the overall provisions of the Licensing (Scotland) Act 2005. In the event that the Scottish Government wishes to change any aspect of licensing enforcement, these decisions should be taken at a national level and not left to individual boards to determine due to the uncertainty and inconsistency that this would inevitably lead to.

Furthermore, the Board would expect to see further evidence detailing the effectiveness of the provisions sought to be enacted under the Bill.

Mark Easton
Depute Clerk
Clackmannanshire Licensing Board
19 January 2010